SENATE

MONDAY, OCTOBER 4, 1965

(Legislative day of Friday, October 1, 1965)

The Senate met at 12 o'clock meridian, on the expiration of the recess, and was called to order by the President pro tempore.

Rev. W. Paul Ludwig, D.D., minister, Chevy Chase Presbyterian Church, Washington, D.C., offered the following prayer:

O God who judges the nations by Thy holiness and holds the keys of mortal destiny in Thy hands, let now the bright noontide of Thy favor be upon these Thy servants.

Turn us all from soft answers when we should stand like the herald on the battlements of truth with a trumpet to our lips; just spare us from torrents of verbal passion when justice will be better served by the quiet persuasion of love.

Grant that ever when the sound of debate has ceased that every voice of whatever accent shall claim a rightful place in the final emergence of just and holy law.

May the deliberations of this body enter the arteries of American life with a surge of fresh courage in those whose zeal for democracy may have been diluted and with a heightened beat of resolution for those whose eyes are wistfully turned toward our benevolent shores as the haven of their noblest hope.

Stand Thou, gracious Father, close by the Presiding Officer and every Member of this Chamber, that at the close of day it may be said, "Thy will is done."

Through Jesus Christ our Lord. Amen.

REPEAL OF SECTION 14(b) OF THE NATIONAL LABOR RELATIONS ACT, AS AMENDED

The PRESIDING OFFICER (Mr. MONTOYA in the chair). The question is on the motion of the Senator from Montana [Mr. MANSFIELD] to proceed to the consideration of H.R. 77.

The Senate resumed the consideration of the motion of the Senator from Montana [Mr. MANSFIELD] that the Senate proceed to the consideration of the bill (H.R. 77) to repeal section 14(b) of the National Labor Relations Act, as amended, and section 703(b) of the Labor-Management Reporting Act of 1959 and to amend the first proviso of section 8(a)(3) of the National Labor Relations Act, as amended.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 1576) to amend the act of May 17, 1954 (68 Stat. 98), as amended, providing for the construction of the Jefferson National Expansion Memorial at the site of the old St. Louis, Mo., and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10871) making appropriations for foreign assistance and related agencies for the fiscal year ending June 30, 1966, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 10 and 11 to the bill, and concurred therein, and that the House receded from its disagreement to the amendment of the Senate numbered 9 to the bill and concurred therein, with an amendment, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 1384. An act for the relief of Theodore Zissu; and

H.R. 6726. An act for the relief of William S. Perrigo.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the Senate have a routine morning hour, with statements limited to 3 minutes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana?

Mr. DIRKSEN. Mr. President, there will be no objection. A morning hour, of course, can come only when the Senate adjourns on the previous day.

However, provided no motions of any kind are made which will affect the pending business, the motion to take up H.R. 77, and only strictly routine morning business is transacted, I shall not object.

Mr. LONG of Louisiana. I modify my request to provide that the transaction of routine morning business be limited to statements and the introduction of bills.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. LONG of Missouri, from the Committee on the Judiciary, with amendments:

S. 1160. A bill to amend section 3 of the Administrative Procedure Act, chapter 324, of the act of June 11, 1946 (60 Stat. 238), to clarify and protect the right of the public to information, and for other purposes (Rept. No. 813).

By Mr. ERVIN, from the Committee on the Judiciary, without amendment:

H.R. 7707. An act to authorize the appointment of crier-law clerks by district judges (Rept. No. 816).

By Mr. ERVIN (for Mr. MCCLELLAN), from the Committee on the Judiciary, without amendment:

H.R. 2853. An act to amend title 17, United States Code, with relation to the fees to be charged (Rept. No. 814); and

H.R. 7888. An act providing for the extension of patent No. D-119,187 (Rept. No. 815).

By Mr. DIRKSEN (for Mr. EASTLAND), from the Committee on the Judiciary, without amendment:

S. 1520. A bill for the relief of Mr. and Mrs. Earl Harwell Hogan (Rept. No. 818);

S. 2091. A bill for the relief of Joaquin U. Villagomez (Rept. No. 819);

H.R. 1218. An act for the relief of T. W. Holt & Co. and/or Holt Import & Export Co. (Rept. No. 820);

H.R. 1311. An act for the relief of Joseph J. McDevitt (Rept. No. 821);

H.R. 1319. An act for the relief of Joseph Durante (Rept. No. 822);

H.R. 1409. An act for the relief of Louis W. Hann (Rept. No. 823);

H.R. 1644. An act for the relief of 1st Lt. Robert B. Gann, and others (Rept. No. 824);

H.R. 1836. An act for the relief of Constantinos Agganis (Rept. No. 826);

H.R. 2005. An act for the relief of Miss Gloria Seborg (Rept. No. 825);

H.R. 2285. An act for the relief of Mrs. Concetta Cioffi Carson (Rept. No. 827);

H.R. 2557. An act for the relief of Frank Simms (Rept. No. 828);

H.R. 2757. An act for the relief of Maria Alexandros Siagris (Rept. No. 829);

H.R 3288. An act for the relief of Hwang Tai Shik (Rept. No. 830);

H.R. 3515. An act for the relief of Mary Ann Hartmann (Rept. No. 831);

H.R. 3669. An act for the relief of Emilia Majka (Rept. No. 832);

H.R. 3770. An act for the relief of certain individuals employed by the Department of the Navy at the Pacific Missile Range, Point Mugu, Calif. (Rept. No. 833);

H.R. 4078. An act for the relief of William L. Minton (Rept. No. 834);

H.R. 4088. An act for the relief of Irving M. Sobin Chemical Co., Inc. (Rept. No. 835);

H.R. 4137. An act for the relief of Dr. Jan Rosciszewski (Rept. No. 836);

H.R. 4194. An act for the relief of Angelica Anagnostopoulos (Rept. No. 837);

H.R. 4203. An act for the relief of Alton G. Edwards (Rept. No. 838);

H.R. 4464. An act for the relief of Michael Hadjichristofas, Aphrodite Hadjichristofas, and Paniote Hadjichristofas (Rept. No. 839);

H.R. 5167. An act to amend title 38 of the United States Code to authorize the administrative settlement of tort claims arising in foreign countries, and for other purposes (Rept. No. 840);

H.R. 5457. An act for the relief of Maria del Rosario de Fatima Lopez Hayes (Rept. No. 842);

H.R. 5554. An act for the relief of Mary Frances Crabbs (Rept. No. 841);

H.R. 5904. An act for the relief of Nam Ie Kim (Rept. No. 843);

H.R. 6229. An act for the relief of Kim Sun Ho (Rept. No. 844);

H.R. 6235. An act for the relief of Chun Soo Kim (Rept. No. 845);

H.R. 6819. An act for the relief of Dr. Orhan Metin Ozmat (Rept. No. 846);

H.R. 8350. An act for the relief of the successors in interest of Cooper Blyth and Grace Johnston Blyth otherwise Grace McCloy Blyth (Rept. No. 847);

H.R. 8457. An act for the relief of Robert G. Mikulecky (Rept. No. 848);

H.R. 8646. An act for the relief of Rifkin Textiles Corp. (Rept. No. 849);

H.R. 9521. An act for the relief of Clarence Earle Davis (Rept. No. 817);

H.R. 9526. An act for the relief of Raffaella Achilli (Rept. No. 850); and

H.R. 9545. An act providing for the acquisition and preservation by the United States of certain items of evidence pertaining to the assassination of President John F. Kennedy (Rept. No. 851).

By Mr. DIRKSEN (for Mr. EASTLAND), from the Committee on the Judiciary, with an amendment:

S. 1848. A bill for the relief of Mary Horalek and Eva Horalek, Blue Rapids, Kans. (Rept. No. 852);

S. 1972. A bill for the relief of Elinor A. Jean (Rept. No. 857); and

S. 2362. A bill for the relief of Hilda Shen Tsiang (Rept. No. 853).

By Mr. DIRKSEN (for Mr. EASTLAND), from the Committee on the Judiciary, with amendments:

S. 317. A bill for the relief of the Swanston Equipment Co. (Rept. No. 854);

S. 851. A bill for the relief of M. Sgt. Bernard L. LaMountain, U.S. Air Force (retired) (Rept. No. 855);

S. 1922. A bill for the relief of Valentina Sidorova Parkevich (Rept. No. 856); and

S. 2112. A bill for the relief of Marian Edith Kid-Stanton Simons (Rept. No. 858).

INVESTIGATION OF CRIMINAL LAWS AND PROCEDURES—REPORT OF A COMMITTEE

Mr. DIRKSEN (for Mr. EASTLAND), from the Committee on the Judiciary, reported an original resolution (S. Res. 152) to investigate criminal laws and procedures, which, under the rule, was referred to the Committee on Rules and Administration, as follows:

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of criminal laws and procedures.

SEC. 2. For the purposes of this resolution the committee from October 1, 1965, to January 31, 1966, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ on a temporary basis technical, clerical, and other assistants and consultants: *Provided,* That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,100 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the department or agency concerned and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for such legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1966.

SEC. 4. The expenses of the committee under this resolution, which shall not exceed $30,000, shall be paid from the contingent fund of the Senate by vouchers approved by the chairman of the committee.

BILLS INTRODUCED

Bills were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. INOUYE:

S. 2597. A bill for the relief of Lourdes H. Velasco; to the Committee on the Judiciary.

By Mr. ROBERTSON (by request):

S. 2598. A bill to authorize the establishment of Federal mutual savings banks; to the Committee on Banking and Currency.

(See the remarks of Mr. ROBERTSON when he introduced the above bill, which appear under a separate heading.)

RESOLUTIONS TO INVESTIGATE CRIMINAL LAWS AND PROCEDURES

Mr. DIRKSEN (for Mr. EASTLAND), from the Committee on the Judiciary, reported an original resolution (S. Res. 152) to investigate criminal laws and procedures, which was referred to the Committee on Rules and Administration.

(See the above resolution printed in full when reported by Mr. DIRKSEN, which appears under the heading "Reports of Committees.")

EXTENSION OF GREETINGS TO HIS HOLINESS, POPE PAUL VI

Mr. DIRKSEN (for Mr. MANSFIELD and himself) submitted a resolution (S. Res. 153) extending the greetings of the people of the United States to His Holiness, Pope Paul VI, which was considered and agreed to.

(See the above resolution printed in full when submitted by Mr. DIRKSEN, which appears under a separate heading.)

FEDERAL CHARTERS FOR MUTUAL SAVINGS BANKS

Mr. ROBERTSON. Mr. President, I have introduced at the request of the Federal Home Loan Bank Board, a bill to provide for the Federal chartering of mutual savings banks. This bill, like S. 3050 of the last Congress and earlier versions, is a major proposal and deserves the careful study of the public and of the affected industries.

I believe it would be helpful in this study to have available the letter of transmittal from the Federal Home Loan Bank Board and the Board's explanation of the bill. Accordingly, I ask unanimous consent to have these documents printed in the RECORD at this point, and also a letter from Grover W. Ensley, executive vice president of the National Association of Mutual Savings Banks, concerning the bill and my reply.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the letters will be printed in the RECORD.

The bill (S. 2598) to authorize the establishment of Federal mutual savings banks, introduced by Mr. ROBERTSON, by request, was received, read twice by its title, and referred to the Committee on Banking and Currency.

The letters presented by Mr. ROBERTSON are as follows:

FEDERAL HOME LOAN BANK BOARD,
Washington, D.C., October 1, 1965.

The PRESIDENT OF THE SENATE.

SIR: The Federal Home Loan Bank Board hereby transmits, and recommends for enactment, a draft for a bill to authorize the establishment of Federal savings banks.

The provisions of the draft are summarized and explained in the analysis which is also transmitted herewith.

Enactment of the proposed legislation would probably not result in any savings in costs of administration of the Federal Home Loan Bank Board and might result in some increases in such costs. However, it is believed that such increases, if any, are not susceptible to estimation at this time with any degree of accuracy and for this reason the question of such possible costs is not dealt with. Any costs involved would of course be handled on the self-supporting basis under which all costs and expenses of the Federal Home Loan Bank Board are handled.

Advice has been received from the Bureau of the Budget that the enactment of the proposed legislation would be consistent with the administration's objectives.

With kind regards, I am,

Sincerely,

JOHN E. HORNE.

SECTION-BY-SECTION ANALYSIS OF DRAFT DATED OCTOBER 1, 1965, FOR A BILL TO AUTHORIZE THE ESTABLISHMENT OF FEDERAL SAVINGS BANKS

Section 1. Short title: The unnumbered first section states the short title, "Federal Savings Bank Act."

TITLE I. FEDERAL SAVINGS BANKS

Chapter 1. General provisions

Section 11. Definitions and rules of construction: Section 11, the first section of title I, contains certain definitions and general rules, principal features of which are summarized below.

The term "mutual thrift institution" would mean a Federal savings bank (the primary purpose of the measure is to provide for the establishment and regulation of such banks), a Federal savings and loan association, or a State-chartered mutual savings bank, mutual savings and loan association, mutual building and loan association, cooperative bank, or mutual homestead association.

In turn, "thrift institution" would mean a mutual thrift institution, a guaranty savings bank, a stock savings and loan association, or a stock building and loan association, and "financial institution" would mean a thrift institution, a commercial bank, or an insurance company. By a special definitional provision in this section, the term "financial institutions acting in a fiduciary capacity" as used in sections 53 and 54 would include a credit union, whether or not acting in a fiduciary capacity.

"State" would mean any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and any territory or possession of the United States.

Section 12. Rules and regulations: Section 12 authorizes the Federal Home Loan Bank Board to make rules and regulations, including definitions of terms in title I.

Section 13. Examinations: The Federal Home Loan Bank Board would be required to conduct not less than one nor more than two regular examinations of each Federal savings bank in each calendar year and to make in each year one or more assessments on all such banks in a manner calculated to yield approximately the total cost of these examinations. It could make a special examination of any bank at any time and would be required to assess the bank with the cost thereof. The section also provides that the Board may render to any bank or officer or director thereof such advice and comment as it may deem appropriate with respect to the bank's affairs.

Section 14. Reports: Section 14 provides that the Board may require periodic and other reports and information from Federal savings banks.

Section 15. Accounts and accounting: The Board would be authorized by section 15 to prescribe, by regulation or order, accounts and accounting systems and practices for Federal savings banks.

Section 16. Right to amend: The right to alter, amend, or repeal title I would be reserved by section 16.

Chapter 2. Establishment and voluntary liquidation

Section 21. Information to be stated in charter: Every charter for a Federal savings

bank would be required to set forth the name of the bank (including "Federal," "savings," and "bank"), the locality in which the principal office is to be located, and other information set forth in section 21. A charter must be in such form and may contain such additional material as the Board may deem appropriate, and the Board may make provision for amendments.

Section 22. Issuance of charter for new bank: A charter for a new Federal savings bank could be issued by the Board on the written application (in such form as the Board may prescribe) of not less than 5 applicants and a determination by the Board that (1) the bank will serve a useful purpose in the community, (2) there is a reasonable expectation of its financial success, (3) its operation may foster competition and will not cause undue injury to existing institutions (including commercial banks) that accept funds from savers on deposit or share accounts, (4) the applicants are of good character and responsibility, and (5) there has been placed in trust or escrow for an initial reserve such amounts, not less than $50,000, in cash or securities approved by the Board as the Board may require, in consideration of transferable certificates to be issued by the bank in such form, on such terms, and bearing such interest or other return as the Board may approve.

Section 23. Issuance of charter for a converted bank: Under subsection (a) of section 23, a charter for a converted institution could be issued by the Board on the written application (in such form as the Board may prescribe) of the converting institution, upon a determination by the Board that (1) the applicant is a mutual thrift institution (defined in section 11), (2) two-thirds of the directors, if the converting institution is a Federal savings and loan association, have voted in favor of the conversion and two-thirds of the votes entitled to be cast by members have been cast in favor thereof, at meetings duly called and held therefor within 6 months prior to the filing of the application, (3) the conversion will not be in contravention of State law, if the applicant is a State-chartered institution, (4) the converted institution will serve a useful purpose in the community, (5) its operation may foster competition and will not cause undue injury as set forth under section 22 above, (6) there is a reasonable expectation of its financial success, based on its capitalization, financial history, and quality of management, and such other factors as the Board may deem appropriate, (7) the composition of its assets is such that, with such exceptions as the Board may prescribe, it will be able to dispose of assets not eligible to be invested in my Federal savings banks, and (8) the proposed initial directors are of good character and responsibility and there is a reasonable expectation that they will comply with the provisions of section 47 as to the conduct of directors.

To such extent as the Board might approve by order, and subject to such prohibitions, restrictions, and limitations as it might prescribe by regulation or written advice, a converted bank could retain and service the accounts, departments, and assets of the converting institution.

Subsection (b) of the section provides that the Board shall not issue a charter under subsection (a) unless it determines that, taking into consideration the quality of the converting institution's assets, its reserves, and surplus, its expense ratios, and such other factors as the Board may deem appropriate, and making appropriate allowances for differences among types of financial institutions, the converting institution's history has been of a character "commensurate with the superior standards of performance expected of a Federal savings bank".

Section 24. Conversion of Federal savings banks into other institutions: Under subsection (a) of section 24 the Board, on written application of a Federal savings bank, could permit it to convert into any other type of mutual thrift institution (defined in section 11), on a determination by the Board that (1) two-thirds of the directors have voted in favor of the proposed conversion, (2) the requirements of section 45 have been met, (3) the conversion will not be in contravention of State law, and (4) upon and after conversion the institution will be an insured institution of the Federal Savings Insurance Corporation (i.e., the Federal Savings and Loan Insurance Corporation, whose name would be changed to Federal Savings Insurance Corporation by section 201) or an insured bank of the Federal Deposit Insurance Corporation.

Subsection (b) of the section provides that no institution into which a Federal savings bank has been converted may, within 10 years after the conversion, convert into any type of institution other than a mutual thrift institution (defined in section 11) which is either a bank insured by the Federal Deposit Insurance Corporation or an institution insured by the Federal Savings Insurance Corporation, regardless of whether the later conversion took place directly or through any intermediate conversions.

Enforcement of this prohibition would be by the Federal Home Loan Bank Board in the case of an institution having a status as an insured institution of the Federal Savings Insurance Corporation and by the Board of Directors of the Federal Deposit Insurance Corporation in the case of an institution having a status as an insured bank of that corporation. On a determination that a violation had taken place, the relevant board, by order issued not later than 2 years after any such violation, could terminate such status without notice, hearing, or other action. For the purposes of this subsection and subsection (a) of section 26, the terms "conversion" and "convert" would be defined as applying to mergers, consolidations, assumptions of liabilities, and reorganizations, as well as conversions.

Section 25. Voluntary liquidation: A Federal savings bank could not voluntarily go into liquidation or otherwise wind up its affairs except in accordance with an order of the Board issued under section 25. Upon application by such a bank, the Board could permit it to carry out a plan of voluntary liquidation upon a determination by the Board that (1) two-thirds of the bank's directors, have voted in favor of the proposed plan, (2) the requirements of section 45 have been met, (3) there is no longer a need in the community for the bank, or there is not a reasonable expectation that its continued operation will be financially sound and successful, and (4) the plan is fair and equitable and in conformity with the requirements of section 26.

Section 26. Distribution of assets upon liquidation: Subsection (a) of section 26 provides that on liquidation of a Federal savings bank under section 25, or liquidation of any institution while subject to the prohibition in subsection (b) of section 24, the net assets after the satisfaction or provision for satisfaction, in accordance with such rules and regulations as the Board may prescribe, of all proper claims and demands against the institution, including those of depositors or shareholders, shall be distributed to the Federal Savings Insurance Corporation. In the case of institutions subject to subsection (b) of section 24, the claims of depositors or shareholders are to be limited to amounts that would have been withdrawable by them in the absence of any conversion (as defined in said subsection) while the institution was so subject.

The object of this provision is to deter conversions of Federal savings banks to nonmutual operation and to deter unneeded voluntary liquidation of Federal savings banks. Under section 24 Federal savings banks are prohibited from converting directly at one step into any other type of institution except a mutual thrift institution insured by the Federal Savings Insurance Corporation or the Federal Deposit Insurance Corporation. Section 26 is designed to deter, to the extent of its provisions, the conversion of a Federal savings bank indirectly or by successive steps into an institution other than such an insured mutual thrift institution.

Subsection (b) of section 26 provides that on liquidation of a Federal savings bank otherwise than pursuant to section 25 the net assets remaining after the satisfaction or provision for the satisfaction, in accordance with such rules and regulations as the Board may prescribe, of all proper claims and demands against the bank, including those of depositors, shall be distributed to the depositors in accordance with such rules and regulations as the Board may prescribe.

Chapter 3. Branching and merger

Section 31. Branches: Under section 31 a Federal savings bank could establish a branch or branches with the approval of the Board, upon a determination by the Board that (1) there is a reasonable expectation of the branch's financial success based on the need for such a facility in the locality, the bank's capitalization, financial history, and quality of management, and such other factors as the Board deems appropriate, (2) its operation may foster competition and will not cause undue injury to existing institutions (including commercial banks) that accept funds from savers on deposit or share account, and (3) if the bank were a State-chartered financial institution other than an insurance company it could establish the proposed branch or an office of an affiliated institution of the same type could be established in the same location.

The object of item (3) in the paragraph above is to limit the establishment of branches by Federal savings banks to States (defined in section 11) where financial institutions other than insurance companies may conduct multioffice operations either through branching or through affiliates. It is of course to be recognized that multioffice operation through affiliates is not branching, but the competitive effect on other financial institutions can be as great as if the multioffice operation were conducted by means of branching.

Section 31 also provides that, under such exceptions and conditions as the Board may prescribe, a converted Federal savings bank may retain any branch in operation immediately prior to the conversion and shall be deemed to have retained any right or privilege to establish or maintain a branch if such right or privilege was held by the converting institution immediately prior to conversion.

Finally, the section provides that, subject to approval granted by the Board not later than the effective date of the merger, acquisition of assets, or assumption of liabilities, a Federal savings bank into which another institution is merged or which acquires the assets or assumes the liabilities of another institution may maintain as a branch the principal office of the other institution or any branch operated by it immediately prior to the merger or transfer and shall be deemed to have acquired any right or privilege then held by the other institution to establish or maintain a branch. The Board could not grant such approval except upon compliance with a requirement analogous to that of item (3) of the first sentence of this analysis of section 31, unless the Board, in granting the approval, determined that the merger, acquisition, or assumption was advisable because of supervisory considerations. Examples of such situations could include those where one or more of the institutions was in a failing or declining condition, where one or more of such institutions was not rendering adequate service in its territory, or where one

or more of the institutions had an unsafe or unsound management.

Section 32. Merger into a Federal savings bank: With the approval of the Board, a Federal savings bank could enter into an arrangement for merger of another mutual thrift institution into it or for acquisition of the assets or assumption of the liabilities of another mutual thrift institution in whole or part other than in the ordinary course of business. Approval could be granted only upon a determination by the Board similar to that of item (1) of the branching requirement of section 31, items (1), (2), and (3) for conversion into another mutual thrift institution under section 24, and item (2) for conversion under section 23, and a further determination by the Board that (in the case of a merger or acquisition of assets) the assets of the surviving or acquiring institution will be such that, with such exceptions as the Board prescribes, it will be able to dispose of assets not eligible for investment by Federal savings banks.

Also, the Board could grant approval only if it determined that the proposed transaction will be in the public interest, taking into consideration the convenience and needs of the community, the general character of the proposed management, and the effect on competition, including any tendency toward monopoly. The Board, unless it found it must act immediately to prevent probable failure of one of the institutions, would be required to request a report from the Attorney General on the competitive factors and at the same time notify the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation of their right to make such a report. The deadline for these reports would be 30 days after the request or notification, or 10 days if the Board advises that an emergency exists requiring expeditious action.

If the Attorney General so requests in his report, the effective date of any order approving the application is to be not less than 10 days after the issuance of the order. The Board is to include in its annual report to Congress information as to such transactions as set forth in the section.

Section 33. Merger of a Federal savings bank into another institution: A Federal savings bank could, with the approval of the Board, enter into a transaction by which the bank itself is merged into or consolidated with another institution, or another institution acquires assets or assumes liabilities of such bank. Determinations similar to those under section 32 would be required, and, in addition such approval would be required to be contingent upon approval of the transaction pursuant to section 32 or pursuant to subsection (c) of section 18 of the Federal Deposit Insurance Act, whichever (if either) was applicable.

Chapter 4. Management and directors

Section 41. Board of Directors: A Federal savings bank would have a board of directors of not less than 7 nor more than 25. The Board could prescribe regulations as to the management structure, and subject thereto the board of directors of a bank could by bylaws or otherwise delegate such functions and duties as it might deem appropriate.

Section 42. Initial directors: The initial directors of a new bank would be elected by the applicants. The initial directors of a converted bank would be the directors of the converting institution, except as the Board might otherwise prescribe, consistently with subsection (b) of section 44 where applicable.

Section 43. Election of directors by depositors: Except as provided in sections 42 and 44, directors would be elected by the depositors. The Federal Home Loan Bank Board could by regulation provide for the terms of office, the manner, time, place, and notice of election, the minimum amount (and a holding period or date of determination) of any deposit giving rise to voting rights, and the method by which the number of votes a depositor would be entitled to cast would be determined.

Section 44. Selection of Directors of banks converted from State-chartered mutual savings banks: Section 44 applies to a State-chartered mutual savings bank which is in operation on the date of enactment of the title and later converts to a Federal savings bank, where the directors of the converting bank were, on the date of such enactment and thereafter, chosen otherwise than by depositor election. If such a converting bank files as part of or an amendment to its application for a Federal charter a description in such detail as the Board requires of the method by which and terms for which its directors were chosen, and if the converted bank has not elected by vote of its directors to be subject to section 43, the method of selection and terms of office of the converted Federal savings bank would be in accordance with such description, with such changes, subject to the discretionary approval of the Federal Home Loan Bank Board, as might be made on application by the converted bank. It is to be noted that this provision would not authorize the Board to approve any such changes in the absence of such an application by the bank.

Section 45. Approval of proposed merger, conversion, or liquidation: No Federal savings bank whose directors were elected by depositors could make application to the Federal Home Loan Bank Board for approval of a merger or consolidation involving such bank, a transfer of assets or liabilities to or from another institution other than in the ordinary course of business, a conversion, or a liquidation pursuant to section 25, unless two-thirds of the votes entitled to be cast by depositors had been cast in favor of making the application at a meeting duly called and and held for such purpose not more than 6 months before the making of the application. The Board would have regulatory authority with respect to such meetings as set forth in the section.

No bank whose directors were not elected by depositors could make any such application unless two-thirds of the votes which would be entitled to be cast for the election of directors have been cast in favor of making the application.

The Board could except from any or all of the foregoing provisions of this section any case in which it determines that such exception should be made because of an emergency requiring expeditious action or because of supervisory considerations.

Section 46. Proxies: Any proxy by a depositor for the election of directors would be required to be revocable at any time. A proxy given for a proposal to be voted on under subsection (a) of section 45 would likewise be so revocable, would be required to expire in any event not more than 6 months after execution, and would be required to specify whether the holder shall vote in favor of or against the proposal. It is further provided that the Board shall prescribe regulations governing proxy voting and solicitation and requiring disclosure of financial interest, compensation and remuneration by the bank of persons who are officers and directors or proposed therefor, and such other matters as the Board may deem appropriate in the public interest and for the protection of investors.

In addition, it is provided that the Board shall by regulation provide procedures by which any depositor may at his own expense distribute proxy solicitation material to all other depositors, but these procedures are not to require disclosure by the bank of the identity of its depositors. It is further provided that the Board shall by order prohibit the distribution of material found by it to be irrelevant, untrue, misleading, or materially incomplete and may by order prohibit such distribution pending a hearing on such issues.

Section 47. General provisions relating to directors, officers, and other persons: Section 47 provides that except as provided in paragraph (2) of subsection (b) of the section no director of a Federal savings bank may be an officer or director of any financial institution other than such bank. Said paragraph (2) provides that a director of a converted bank who held office on the date of enactment of this title as a director of the converting institution, and whose service has been continuous, may continue to be a director of any financial institution of which he has continuously so been a director, unless the Board finds after opportunity for hearing that there exists an actual conflict of interest or the dual service is prohibited by or under some other provision of law.

At least one more than half the directors of any Federal savings bank would be required to be persons residing not more than 150 miles from its principal office. No director could receive remuneration as such except reasonable fees for attendance at meetings of directors or for service as a member of a committee of directors, but this provision is not to prohibit compensation for services rendered to the bank in another capacity. The office of a director would become vacant when he had failed to attend regular meetings for a period of 6 months unless excused by resolution duly adopted by the directors prior to or during that period.

With certain exceptions, no bank could make a loan or extend credit (other than on the sole security of deposits) to any director, officer, or employee of the bank or to any person regularly serving the bank as attorney at law, or to any partnership or trust in which any such party has an interest or any corporation in which any of them are stockholders, and no bank could purchase any loan from any such party, partnership, trust, or corporation. However, with prior approval of a majority of the directors not interested in the transaction (this approval to be evidenced by affirmative vote or written assent of such directors) a bank could on terms not less favorable to it than those offered to others, make a loan or extend credit to, or purchase a loan from, any corporation in whch any such party owns, controls, or holds with power to vote not more than 15 percent of the outstanding voting securities and in which all such parties own, control, or hold with power to vote not more than 25 percent thereof, full details of the transaction to be reflected in the records of the bank.

Further, a bank could, with the prior approval of a majority of its directors, and on terms not more favorable than those offered to other borrowers, (1) make a loan on the security of a first lien on a home owned and occupied or to be owned and occupied by a director, officer, or employee or a person or member of a firm regularly serving the bank as attorney at law, in such amount as might be permitted by regulation, and (2) make to any such person any loan that it may lawfully make, in an aggregate amount not over $5,000.

Additional provisions of this section would prohibit any bank, director, or officer from requiring (as a condition to any loan or other service by the bank) that the borrower or any other person undertake a contract of insurance or any other agreement or understanding as to the furnishing of other goods or service with any specific company, agency, or individual; would prohibit deposit of funds except with a depositary approved by vote of a majority of all directors, exclusive of any who is an officer, partner, director, or trustee of the depositary; and would, except as otherwise provided by the Federal Home Loan Bank Board, prohibit any bank from purchasing from or selling to any of the persons mentioned in the above prohibitions on

loans any securities or other property, with similar 15- and 25-percent exceptions. Also, no bank could pay to any director, officer, attorney, or employee a greater rate of return on his deposits than that paid to other holders of similar deposits.

Where the directors or officers of a bank knowingly violated or permitted any of its directors, officers, employees, or agents to violate any provision of the title or regulations of the Board under authority thereof, or any of the provisions of specified sections of title 18 of the United States Code, every director and officer participating or assenting to such violation shall, the section provides, be held liable in his personal and individual capacity for all damages which the bank, its depositors, or any other persons sustain in consequence of the violation.

Except with prior approval of the Board, no person could serve as a director, officer, or employee of a Federal savings bank if he had been convicted of a criminal offense involving dishonesty or breach of trust, and for each willful violation the bank would be subject to a penalty of not over $100 for each day the prohibition was violated. Finally, no officer, director, or employee of any corporation or unincorporated association, no partner or employee of any partnership, and no individual, primarily engaged in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation, of stocks, bonds, or similar securities could serve at the same time as an officer, director, or employee of such a bank except in limited classes of cases in which the Board might allow such services by general regulation when in the Board's judgment it would not unduly influence the investment policies of the bank or the advice given by it to its customers regarding investments.

Chapter 5. Sources of funds

Section 51. Reserves: A Federal savings bank could not commence operations until the amount required by section 22(5) had been paid to the bank for an initial reserve, and such reserve could be reduced only by the amount of losses or by retirement of the certificates referred to in section 22(5). The bank would be required to establish, and make such credits and charges to, such other reserves as the Board might prescribe. Subject to such restrictions and limitations as the Board might prescribe, it could retain additional amounts which could be used for any corporate purpose.

Section 52. Borrowings: To such extent as the Board might authorize by regulation or advice in writing, a bank could borrow and issue notes, bonds, debentures, or other obligations or other securities, except capital stock.

Section 53. Savings deposits: A bank could accept savings deposits except from foreign governments and official institutions thereof and except from private business corporations for profit other than financial institutions acting in a fiduciary capacity. It could issue passbooks or other evidences of its obligation to repay such deposits.

Under subsection (b) of this section, a bank could classify its savings depositors according to specified criteria and agree in advance to pay an additional rate of interest based on such classification. However, it would be required to regulate such interest so that each depositor would receive the same rate as all others of his class.

Further provisions of this section would authorize a bank to refuse sums offered for deposit and to fix a maximum amount for savings deposits and repay, on a uniform nondiscriminatory basis, those exceeding the maximum. The bank could require up to 90 days' notice before withdrawal from such deposits, notifying the Board immediately in writing, and the Board, by a finding which must be entered on its records, could suspend or limit withdrawals of savings deposits from any Federal savings bank if it found that unusual and extraordinary circumstances so required.

Interest on savings deposits could be paid only from net earnings and undivided profits, and the Board could provide by regulation for the time or rate of accrual of unrealized earnings.

Section 54. Time deposits: Subject to the same exceptions as in the case of savings deposits, a Federal savings bank could accept deposits for fixed periods not less than 91 days and could issue nonnegotiable interest-bearing time certificates of deposit or other evidence of its obligation to pay such time deposits.

Section 55. Authority of Board: The exercise of authority under sections 53 and 54 would be subject to rules and regulations of the Board, but it is provided that nothing in this section shall confer on the Board any authority as to interest rates other than the additional rate referred to in section 53(b).

Chapter 6. Investments

Section 61. Definitions and general provisions: Section 61 contains definitions and general provisions for the purpose of the investment provisions of the bill.

Among other things, "general obligations" would mean an obligation supported by an unqualified promise or pledging or commitment of faith or credit, made by an entity referred to in section 62(1) or 63(a) or a governmental entity possessing general powers of taxation including property taxation, for the payment, directly or indirectly, of an amount which, together with any other funds available for the purpose, will suffice to discharge the obligation according to its terms.

The term "political subdivision of a State" would include any county, municipality, or taxing or other district of a State, and any public instrumentality, public authority, commission, or other public body of any State or States; "eligible leasehold estate" would mean a leasehold estate meeting such requirements as the Board might prescribe by regulation; and "conventional loan" would mean a loan (other than as referred to in section 70) secured by a first lien on a fee simple or eligible leasehold estate in improved real property.

Section 61 also provides that the Board may authorize any acquisition or retention of assets by a Federal savings bank (including, without limitation, stock in service corporations) on a determination that such action is necessary or advisable for a reason or reasons other than investment, and may exempt or except such acquisition, retention, or assets from any provision of the title.

The same section also provides authority and limitations for acquisition (as distinguished from origination) of loans and investments, and for acquisition by origination or otherwise of participating or other interests in loans and investments. Any such interest must be at least equal in rank to any other interest not held by the United States or an agency thereof and must be superior in rank to any other interest not so held and not held by a financial institution or a holder approved by the Board. It also provides authority for the making of loans secured by an obligation or security in which the bank might lawfully invest, but such a loan may not exceed such percentage of the value of the obligation or security, nor be contrary to such limitations and requirements, as the Board may prescribe by regulation.

Section 62. Investments eligible for unrestricted investment: Section 62 provides that a Federal savings bank may invest in (1) general obligations of, or obligations fully guaranteed as to interest and principal by, the United States, any State, one or more Federal home loan banks, banks for cooperatives (or the Central Bank for Cooperatives), Federal land banks, or Federal intermediate credit banks, the Federal National Mortgage Association, the Tennessee Valley Authority, the International Bank for Reconstruction and Development, or the Inter-American Development Bank, (2) bankers' acceptances eligible for purchase by Federal Reserve banks, or (3) stock of a Federal home loan bank.

Section 63. Canadian obligations: Section 63 provides in subsection (a) that, subject to the limitations in subsection (b), a Federal savings bank may invest in general obligations of, or obligations fully guaranteed as to interest and principal by, Canada or any province thereof. Subsection (b) provides that investments in obligations under this section or under section 64(2) may be made only where the obligation is payable in U.S. funds and where, on the making of the investment, not more than 5 percent of the bank's assets will be invested in Canadian obligations, and, if the investment is in an obligation of a Province, not more than 1 percent of its assets will be invested in obligations of such Province. "Canadian obligation" is defined as meaning the above mentioned obligations and obligations of Canada or a Province thereof referred to in section 64(2).

Section 64. Certain other investments: Subject to a limitation of 2 percent of the bank's assets invested in securities and obligations of one issuer, and to such further limitations as to amount and such requirements as to investment merit and marketability as the Board may prescribe by regulation, a bank may invest in (1) general obligations of a political subdivision of a State, (2) revenue or other special obligations of Canada or a Province thereof or of a State or political subdivision thereof, (3) obligations or securities (other than equity securities issued by a corporation organized under the laws of the United States or a State, (4) obligations of a trustee or escrow agent under section 22(5) or certificates issued thereunder, and subordinated debentures of a mutual thrift institution insured by the Federal Deposit Insurance Corporation or the Federal Savings Insurance Corporation (the name to which the Federal Savings and Loan Insurance Corporation would be changed by section 201), or (5) equity securities issued by any corporation organized under the laws of the United States or of a State. This authority is subject, in the case of such equity securities, to a further requirement that at the time of the investment the reserves and undivided profits of the bank equal at least 5 percent of its assets and that on the making of the investment the aggregate amount of all equity securities then so held by the bank not exceed 50 percent of its reserves and undivided profits and the quantity of equity securities of the same class and issuer held by the bank not exceed 5 percent of the total outstanding. For the purposes of this section the Board could by regulation define "corporation" to include any form of business organization.

Section 65. Real estate loans: Conventional loans could be made, subject to such restrictions and requirements as the Board might by regulation prescribe as to appraisal and valuation, maturity (not over 30 years in the case of loans on one- to four-family residences), amortization, terms and conditions, and lending plans and practices. No such loan could result in an aggregate indebtedness of the same borrower exceeding 2 percent of the bank's assets or $35,000, whichever was greater. Also, no such loan secured by a first lien on a fee-simple estate in a one- to four-family residence could exceed 80 percent, or in the case of any other real property 75 percent, of the value of the property except under such conditions and subject to such limitations as the Board might prescribe by regulation. Further, no loan secured by a first lien on a leasehold

estate could be made except in accordance with such further requirements and restrictions as the Board might so prescribe.

Loans for the repair, alteration, or improvement of any real property could be made under such prohibitions, limitations, and conditions as the Board might prescribe by regulation. Loans not otherwise authorized under the title but secured by a first lien on a fee-simple or eligible leasehold estate in unimproved property could be made, provided the loan was made in order to finance the development of land to provide building sites or for other purposes approved by the Board by regulation as in the public interest and provided the loan conformed to regulations limiting the exercise of such power and containing requirements as to repayment, maturities, ratios of loan to value, maximum aggregate amounts, and maximum loans to one borrower or secured by one lien which were prescribed by the Board with a view to avoiding undue risks to such banks and minimizing inflationary pressures on land in urban and urbanizing areas.

The section contains a provision that a bank investing in a loan where the property securing the loan is a one- to four-family residence more than 100 miles and in a different State from the principal office of the bank must retain for such loan a Federal Housing Administration-approved mortgagee resident in such other State to act as independent loan servicing contractor and to perform loan servicing functions and such other related services as were required by the Board.

Section 66. Loans upon the security of deposits or share accounts: A Federal savings bank could make any loan secured by a deposit in itself or, to such extent as the Board might permit by regulation or advice in writing, secured by a deposit or share account in another thrift institution or a deposit in a commercial bank.

Section 67. Loans secured by life insurance policies: A Federal savings bank could make a loan secured by a life insurance policy, not exceeding the cash surrender value.

Section 68. Unsecured loans: Unsecured loans not otherwise authorized under the title could be made, but only to such extent as the Board might permit by regulation, and then not if the loan would increase the outstanding principal of such loans to any principal obligor, as defined by the Board, to more than $5,000. No loan could be so made if any obligor was a private business corporation for profit.

Section 69. Educational loans: Subject to such prohibitions, limitations, and conditions as the Board might prescribe by regulation, a Federal savings bank could invest in loans, obligations, and advances of credit made for the payment of expenses of college or university education, up to a limit of 5 percent of the bank's assets.

Section 70. Insured or guaranteed loans: A Federal savings bank could, unless otherwise provided by regulations of the Board, make any loan the repayment of which was wholly or partially guaranteed or insured by the United States, a State, or an agency of either, or as to which the bank had the benefit of such insurance or guarantee or of a commitment or agreement therefor.

Chapter 7. Miscellaneous corporate powers and duties

Section 71. General powers: Section 71 provides that a Federal savings bank shall be a corporation organized and existing under the laws of the United States and sets forth miscellaneous corporate powers, which are to be subject to such restrictions as may be imposed under the title or other provisions of law or by the Board. It also provides that such a bank shall have power to do all things reasonably incident to the exercise of such powers. The specified powers would include the power to sell mortgages and interests therein, and to perform loan servicing functions and related services for others in connection with such sales, provided the sales are incidental to the investment and management of the funds of the bank.

Section 72. Service as depositary and fiscal agent of the United States: Section 72 provides that when so designated by the Secretary of the Treasury a Federal savings bank shall be a depositary of public money, except receipts from customs, under such regulations as he may prescribe, and may be employed as a fiscal agent of the Government, and shall perform all such reasonable duties as such depositary and agent as may be required of it.

Section 73. Federal home loan bank membership: On issuance of its charter, a Federal savings bank would automatically become a member of the Federal home loan bank of the district of its principal office, or if convenience required and the Board approved, of an adjoining district. It is provided that such banks shall qualify for such membership in the manner provided in the Federal Home Loan Bank Act for other members.

Section 74. Change of location of offices: A Federal savings bank could not change the location of its principal office or any branch except with the approval of the Board.

Section 75. Liquidity requirements: A Federal savings bank would be required to maintain liquid assets consisting of cash and obligations of the United States in such amount as, in the Board's opinion, was appropriate to assure the soundness of such banks. Such amount could not, however, be less than 4 percent or more than 10 percent of the bank's obligation on deposits and borrowings, and the Board could specify the proportion of cash and the maturity and type of eligible obligations. The Board could classify such banks according to type, size, location, withdrawal rate, or such other basis or bases as it might deem reasonably necessary or appropriate for effectuating the purposes of the section.

In addition, the Board could require additional liquidity if in its opinion the composition and quality of assets, the composition of deposits and liablities, or the ratio of reserves and surplus to deposits required further limitation of risk to protect the safety and soundness of a bank or banks. The total of the general liquidity requirement and of this special liquidity requirement could not exceed 15 percent of the obligation of the bank on deposits and borrowings.

The general liquidity requirement would be computed on the basis of average daily net amounts covering periods established by the Board, and the special liquidity requirement would be computed as the Board might prescribe. Penalties for deficiencies in either requirement are provided for. The Board would be authorized to permit a bank to reduce its liquidity if the Board deemed it advisable to enable the bank to meet requests for withdrawal, and would be authorized to suspend any part or all of the requirements in time of national emergency or unusual economic stress, but not beyond the duration of such emergency or stress.

Chapter 8. Taxation

Section 81. State taxation: Section 81 provides that no State or political subdivision thereof shall permit any tax on Federal savings banks or their franchises, surplus, deposits, assets, reserves, loans, or income greater than the least onerous on any other thrift institution. It further provides that no State other than the State of domicile shall permit any tax on such items in the case of Federal savings banks whose transactions within such State do not constitute doing business, except that the act is not to exempt foreclosed properties from specified types of taxation. The section also defines "doing business" and other terms used in the section.

Chapter 9. Enforcement

Section 91. General provisions: Section 91 states the power of the Board to enforce the title and rules and regulations thereunder and the extent to which the Board is authorized to act in its own name and through its own attorneys. It also provides that the Board shall be subject to suit, other than on claims for money damages, by any Federal savings bank with respect to any matter under the title or any other applicable law, or rules and regulations thereunder, in the U.S. district court for the district of the bank's principal office or in the U.S. District Court for the District of Columbia. It further provides as to service of process on the Board.

Section 92. Cease-and-desist orders: If in the opinion of the Board a Federal savings bank is violating or has violated or is about to violate any law, rule, or regulation, or is engaging or has engaged or is about to engage in any unsafe or unsound practice, the Board is to serve on the bank a notice of charges, including the fixing of a time and place at which a hearing will be held, not later than 60 days after service unless a later date is set by the Board at the request of the bank. If, on the record, the Board finds that any violation or practice specified in the notice has been established, it is to cause to be served on the bank an order to cease and desist therefrom.

Such a cease-and-desist order is to become effective at the expiration of 30 days after service and is to remain effective and enforcible except as it is stayed, modified, terminated, or set aside by the Board or a reviewing court. Judicial review of such an order is to be exclusively as provided in section 96.

If the Board determines that the continuation of the violation or violations or the unsafe or unsound practice or practices specified in the notice of charges could cause insolvency (as defined in section 94(a)) or substantial dissipation of assets or earnings, or otherwise seriously prejudice the interest of the depositors, the Board may issue a temporary order requiring the bank to cease and desist from any such violation or practice. Such a temporary order is to become effective on service and to remain effective and enforcible pending completion of the administrative proceedings pursuant to the notice, until the Board dismisses the charges or, if a cease-and-desist order is issued, until the effective date of such order.

Within 10 days after service of a temporary cease-and-desist order the bank may apply to such a court as is mentioned in section 91 for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings. In case of violation or threatened violation of or failure to obey a temporary cease-and-desist order the Board may apply to the U.S. district court, or the U.S. court of any territory, within the jurisdiction of which the principal office of the bank is located, for an injunction to enforce the order. If the court determines that there has been such violation or threatened violation, or such failure, the court is to issue such injunction without consideration of any other issue or matter.

Where a bank is served with a notice of charges under the foregoing provisions of the section, or a director or officer is served with a notice of intention to remove under section 93, and admits the charges, the bank, or the director or officer, may within 30 days apply to the court of appeals of the United States for the district in which the bank's principal office is located, or the U.S. Court of Appeals for the District of Columbia Circuit, for a declaratory judgment or other relief with respect to the constitutionality of any law,

rule, or regulation which is the subject matter of the notice.

In such case the court is to have jurisdiction to enter an order, judgment, or decree determining the validity of, or affirming, terminating, or setting aside the notice, or to issue a cease-and-desist order or an order of removal, or other orders consistent with the notice. However, the court is to dismiss any such proceeding whenever it appears that there is a genuine issue as to any material fact.

Section 93. Suspension or removal of director or officer: When in the opinion of the Board a director or officer of a bank has committed a violation of a cease-and-desist order which has become final or a violation of law, rule, or regulation, or has engaged or participated in an unsafe or unsound practice in connection with the bank or has committed or engaged in an act, omission, or practice constituting a breach of his fiduciary duty as such, and has willfully continued the same after written warning by the Board not to do so, the Board may serve on him a written notice of intention to remove him and may suspend him from office.

Such a suspension is to become effective upon such service and, unless stayed in proceedings hereinafter mentioned, is to remain in effect until terminated or set aside by the Board or until the director or officer is removed.

A notice of intention to remove is to fix a time and place for a hearing, which must be fixed for a date not earlier than 30 days after service. If, on the record, the Board finds that any of the grounds has been established, it is to issue such orders as it deems appropriate, including an order of removal. In connection with any such order the Board may provide for the suspension or invalidation of proxies, consents, or authorizations held by the director or officer in respect of voting rights in the bank. Judicial review is to be exclusively as provided in section 96. However, the director or officer may within 10 days after suspension, apply to the U.S. district court for the district of the bank's principal office, or the U.S. District Court for the District of Columbia, for a stay of the suspension pending the completion of the administrative proceedings for removal.

In addition to the foregoing provisions, section 93 provides that when a director or officer is charged in an information or indictment with commission of or participation in a felony involving the affairs or business of any institution the accounts of which are insured by the Federal Savings Insurance Corporation, the Board may suspend him by written notice served on him. If he is convicted, he would thereupon cease to be a director or officer of the bank, but if found not guilty the suspension would terminate. A finding of not guilty would not preclude the Board from thereafter instituting proceedings to remove him under the other provisions of the section.

The section also provides that if, because of suspension of one or more directors, there is less than a quorum of directors not suspended, the powers and functions of the board of directors shall vest in the director or directors not suspended, and that if all are suspended the Board shall appoint persons to serve pending termination of the suspension or until the suspended directors cease to be directors and their successors take office.

Section 94. Conservatorship and receivership: Section 94 provides the following grounds for appointment of a conservator or receiver for a Federal savings bank: (1) insolvency in that the bank's assets are less than its obligations to creditors and others, including depositors; (2) substantial dissipation of assets or earnings due to violation or violations of law, rules, or regulations, or unsafe or unsound practice or practices; (3) an unsafe or unsound condition to transact business; (4) willful violation of a cease-and-desist order which has become final; (5) concealment of books, papers, records, or assets, or refusal to submit books, papers, records, or affairs to an examiner or lawful agent of the Board.

If in the opinion of the Board such a ground exists and the Board determines that a cease-and-desist order or temporary cease-and-desist order under section 92 would not adequately protect the interests of the public or the depositors or of the Federal Savings Insurance Corporation, the Board may appoint a conservator or receiver ex parte and without notice. Within 30 days thereafter the bank could bring an action in such a court for an order requiring the Board to remove the conservator or receiver. The Board could also appoint a conservator or receiver without any requirement of notice, hearing, or other action if the bank, by resolution of its board of directors, consents thereto, the bank's Federal home loan bank membership or its status as an insured institution is terminated, or the bank has failed for 90 days to pay a withdrawal application in full. Only the Federal Savings Insurance Corporation could be appointed as receiver.

Section 95. Hearings and relief: Any hearing provided for in this chapter must be held in the Federal judicial district, or the territory, in which the bank's principal office is located, unless the party afforded the hearing consents to another place. Any such hearing must be conducted in accordance with the provisions of the Administrative Procedure Act. After the hearing, and within 90 days after the Board notifies the parties that the case has been submitted to it for final decision, the Board must render its decision and cause an order or orders to be served on each party. The Board could, on such notice and in such manner as it deemed proper, modify any such order or terminate it or set it aside, unless a petition for review had been filed as provided in section 96, and it could do so thereafter with permission of the court.

Section 96. Judicial review: Judicial review would be by filing a written petition in the court of appeals of the United States for the circuit of the bank's principal office, or the U.S. Court of Appeals for the District of Columbia Circuit, within 30 days after the service of the order. The clerk of the court would thereupon transmit a copy of the petition to the Board and the Board would file in the court the record of the proceeding as provided in 28 U.S.C. 2112. Review would be as provided in the Administrative Procedure Act, and the judgment and decree of the court would be final except that it would be subject to review by the Supreme Court on certiorari as provided in 28 U.S.C. 1254. Commencement of review proceedings would not, unless specifically ordered by the court, operate as a stay of an order issued by the Board.

Section 97. Enforcement: Section 97 provides that the Board in its discretion may apply to the U.S. district court or the U.S. court of any territory within the jurisdiction of which the bank's principal office is located for the enforcement of any effective and outstanding order of the Board under the chapter. It also provides that any court having jurisdiction of a proceeding instituted under the chapter by a Federal savings bank or an officer or director thereof may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper, and that the same shall be paid by the bank or from its assets.

Section 98. Miscellaneous provisions: Section 98 contains various ancillary provisions, including provisions as to oaths and affirmations, depositions, and subpenas and subpenas duces tecum. It provides that all expenses of the Board or the Federal Savings Insurance Corporation in connection with the chapter shall be considered as nonadministrative expenses. It further provides as to how service may be made and authorizes the Board to make rules and regulations for reorganizations, liquidation, and dissolution of Federal savings banks, for consolidations in which the resulting institution or one or more of the consolidating institutions is such a bank, and for such banks in conservatorship and receivership, and for the conduct of conservatorships and receiverships.

Section 99. Criminal penalties: Section 99 provides criminal penalties for directors or officers, or former directors or officers, who, with knowledge of a suspension or of an order of removal which has become final, participate in the conduct of the bank's affairs, solicit or procure proxies, consents, or authorizations in respect of voting rights in the bank, or vote or attempt to vote any such proxies, consents, or authorizations. It also provides criminal penalties for any of the same who, without prior written approval of the Board, serve or act as director, officer, or employee of any institution whose accounts are insured by the Federal Savings Insurance Corporation, and further provides that where a conservator or receiver demands possession of property, business, or assets of a Federal savings bank the refusal by a director, officer, employee, or agent of the bank to comply with the demand shall be criminally punishable. The penalty for violation of the section would be a fine of not over $5,000 or imprisonment for not over 1 year, or both.

TITLE II

Section 201. Change of name of insurance corporation: Section 201 would change the name of the Federal Savings and Loan Insurance Corporation to Federal Savings Insurance Corporation, which is more accurately descriptive of its function.

Section 202. Mergers and similar transactions involving insured institutions: Section 202 of the draft bill would amend section 402 of the National Housing Act by providing that without the prior written approval of the Federal Home Loan Bank Board no mutual savings bank which is an insured institution (that is, an institution the accounts of which are insured by the Federal Savings Insurance Corporation) shall become a party to a merger or consolidation or to a transaction by which, otherwise than in the ordinary course of business, such bank transfers or acquires assets or transfers or assumes liabilities.

The section provides that the Board shall not grant approval unless it determines that the proposed transction will be in the public interest, taking into consideration its effect on competition (including any tendency toward monopoly) and such other factors as the Board deems appropriate.

Further provisions of the section, applicable unless the transaction is one to which section 32 of the bill or subsection (c) of section 18 of the Federal Deposit Insurance Act (which latter provision is commonly referred to as the Bank Merger Act) is applicable, are similar to provisions of said section 32, including provisions as to reports of the Attorney General, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

Section 203. Insurance by the Federal Savings Insurance Corporation: Section 203 would require the Federal Savings Insurance Corporation to insure the deposits of each Federal savings bank and authorize it to insure the deposits of mutual savings banks chartered or organized under the laws of the States, the District of Columbia, and the territories and possessions.

Section 204. Conforming amendments to section 406 of National Housing Act: Section 204 would make conforming amendments to provisions of section 406 of the National Housing Act affected by the extension

of insurance under title IV of that act to deposits in Federal savings banks and mutual savings banks of the States, the District of Columbia, and the territories and possessions.

Section 205. Conforming amendment to section 407 of National Housing Act: Section 205 of the draft bill would amend section 407 of the National Housing Act (relating to termination of insurance of accounts by the Federal Savings Insurance Corporation) so as to include Federal savings banks along with Federal savings and loan associations among the institutions which cannot voluntarily terminate their insurance with the Federal Savings Insurance Corporation.

Section 206. Change of insurance from Federal Deposit Insurance Corporation to Federal Savings Insurance Corporation: Section 206 provides that when a State-chartered mutual savings bank insured by the Federal Deposit Insurance Corporation qualifies to be insured by the Federal Savings Insurance Corporation or is converted into a Federal savings bank or merged or consolidated into a Federal savings bank or a savings bank which is, or within 60 days becomes, an insured institution under section 401 of the National Housing Act (relating to the Federal Savings Insurance Corporation), the FDIC shall calculate the amount in its capital account attributable to such mutual savings bank, as set forth in the draft bill. This amount is to be paid, as set forth in the draft bill, by the FDIC to the Federal Savings Insurance Corporation.

Section 207. Eligibility of mutual savings banks for FDIC insurance: Section 207 would end the future eligibility for FDIC insurance of those mutual savings banks which the draft bill would make eligible for Federal Savings Insurance Corporation insurance. It would not affect the FDIC insurance of mutual savings banks which on the effective date of the new provisions were insured by the FDIC.

Section 208. Amendment of criminal provisions: Section 208 would amend a number of specified provisions of title 18 of the United States Code, which relates to crimes and criminal penalties. The principal object of these amendments is to extend those provisions so as to make them applicable to Federal Home Loan Bank members and institutions insured by the Federal Savings Insurance Corporation, which would have the effect of making them applicable to Federal savings banks since all such banks would be required by the draft bill to have such membership and insurance.

Section 209. Technical provisions: Section 209 provides that headings and tables shall not be deemed to be a part of the act and that no inference, implication, or presumption shall arise by reason thereof or by reason of the location or grouping of any section, provision, or portion of the act or of any title of the act.

Section 210. Separability: Section 210, the last section, is a separability provision along usual lines.

NATIONAL ASSOCIATION OF
MUTUAL SAVINGS BANKS,
New York, N.Y., August 4, 1965.

Hon. A. WILLIS ROBERTSON,
Chairman, Committee on Banking and Currency, U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: The most important concern of the mutual savings bank industry is admission into the dual banking system through legislation which would authorize the chartering and supervision of mutual savings banks by the Federal Government. As you know, mutual savings banks exist only in 18 States and remain the only major form of American banking or thrift institutions which cannot be chartered by the Federal Government.

This proposition of Federal charters for mutual savings banks has had the support of the Commission on Money and Credit, as well as the support of the President's Committee on Financial Institutions. You will recall that after many years of study by various public and government groups the Federal Home Loan Bank Board last year transmitted to the Congress a draft bill which provided for the chartering of Federal mutual savings banks. In fact, you introduced this bill (S. 3050) on July 29, 1964. Unfortunately, because the proposed legislation was transmitted so late in the 2d session of the 88th Congress, full consideration of it could not be taken.

We understand that the Federal Home Loan Bank Board will soon transmit to the Congress a revised draft bill to provide for the Federal chartering of mutual savings banks and, of course, we are delighted with this information. I sincerely hope that you will introduce this proposed legislation and that it will be possible to schedule early hearings on the bill.

Many thanks for your past courtesies and my very best personal regards.

Sincerely yours,

GROVER W. ENSLEY,
Executive Vice President.

AUGUST 23, 1965.

Mr. GROVER W. ENSLEY,
Executive Vice President, National Association of Mutual Savings Banks, 200 Park Avenue, New York, N.Y.

DEAR GROVER: I have received your letter expressing your understanding that the Federal Home Loan Bank Board may soon transmit to the Congress a revised draft bill to provide for the Federal chartering of mutual savings banks, along the lines of S. 3050, which I introduced at the Board's request last year.

If the Board should transmit a revised draft of a Federal mutual savings bank charter bill and request me to introduce it, I should be glad to do so. However, I do not believe that it would be possible to look for hearings during this session of Congress on a substantial new matter of this sort.

With kind personal regards, I am

Sincerely yours,

A. WILLIS ROBERTSON,
Chairman.

REPEAL OF SECTION 14(b) OF THE NATIONAL LABOR RELATIONS ACT AS AMENDED—AMENDMENTS

AMENDMENTS NOS. 466 THROUGH 470

Mr. ERVIN. Mr. President, I submit certain amendments which I intend to propose at the proper time to H.R. 77, the bill to repeal section 14(b) of the National Labor Relations Act, as amended.

One of these amendments is in the nature of a substitute and would establish a national right-to-work law. The other amendments are designed to restore to the National Labor Relations Act, as amended, the original congressional intent which has been lost through misinterpretation.

Mr. President, I ask unanimous consent as follows: First, that I may submit these amendments at this time; second, that they may lie at the desk until called up; and third, that copies of the amendment be printed in the body of the RECORD as part of my remarks.

The PRESIDING OFFICER. The amendments will be received, printed, and will lie on the table; and, without objection, the amendments will be printed in the RECORD.

The amendments are as follows:

AMENDMENT NO. 466

That (a) subsection (b) of section 14 of the National Labor Relations Act, as amended (29 U.S.C. 164(b)), is hereby amended to read as follows:

"SEC. 14(b). (1) The right to live includes the right to work. The exercise of the right to work must be protected and maintained free from undue restraints and coercion. It is hereby declared to be the public policy of the United States that the right of persons to work shall not be denied or abridged on account of membership or nonmembership in any labor organization or association.

"(2) Any agreement or combination between any employer and any labor organization whereby persons not members of such organization shall be denied the right to work for said employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such organization acquires an employment monopoly in any enterprise, is hereby declared to be against the public policy and an illegal combination or conspiracy in restraint of trade or commerce in the United States.

"(3) No person shall be required by an employer to become or remain a member of any labor organization as a condition of employment or continuation of employment by such employer.

"(4) No person shall be required by an employer to abstain or refrain from membership in any labor organization as a condition of employment or continuation of employment.

"(5) No employer shall require any person, as a condition of employment or continuation of employment, to pay any dues, fees, or other charges of any kind to any labor organization.

"(6) Any person who may be denied employment or be deprived of continuation of his employment in violation of subsections (3), (4), and (5) or of one or more of such sections, shall be entitled to recover from such employer and from any other person, firm, corporation, or association acting in concert with him by appropriate action in the appropriate U.S. District Court or the appropriate court of any State, territory, or commonwealth such damages as he may have sustained by reason of such denial or deprivation of employment.

"(7) The provisions of this section shall not apply to any lawful contract in force on the effective date hereof but they shall apply in all respects to contracts entered into thereafter and to any renewal or extension of any existing contract."

(b) Section 7 of such Act is amended by striking out the words "except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 8(a)(3)".

(c) Paragraph (3) of subsection (a) of section 8 of such Act is amended by striking out the first and second provisos.

(d) Subsection (f) of section 8 of such Act is repealed.

(e) Subsection (e) of section 9 of such Act is repealed.

Amend the title so as to read: "An Act to establish a National Right-To-Work Law for the United States."

AMENDMENT NO. 467

Add the following new subsection (e) after subsection (d) on page 3:

"Paragraph (1) of subsection (b) of Section 8 of the National Labor Relations Act, as amended (29 U.S.C. 158(b)(1)) is amended by changing the period at the end thereof to a colon, and by adding after such colon a second proviso reading as follows:

"'*Provided further*, That nothing contained in the foregoing proviso or in any other provision of law or any regulation adopted by it, shall authorize a labor organization or its agents to discipline or punish any employee for participation in the filing of any petition under the provisions of this Act, or for exercising any

right whatsoever secured to him by the Constitution or laws of the United States.'"

AMENDMENT NO. 468

On pages 2 and 3, strike out subsection (c) in its entirety, and insert in lieu thereof a new subsection (c) as follows:

"No individual who has religious convictions against joining or financially supporting a labor organization may be required to join or financially support any labor organization as a condition of employment if such individual pays to the Treasurer of the United States a sum equal to the initiation fees and periodic dues uniformly required as a condition of acquiring and retaining membership in a labor organization which is representative of the employee unless said individual and said labor organization mutually agree upon some other condition of employment."

AMENDMENT NO. 469

Add the following new subsection (e) after subsection (d) on page 3:

"Section 8(d) of the National Labor Relations Act, as amended (29 U.S.C. 158(d)), is hereby amended by inserting between the word 'concession' and the colon preceding the proviso a comma and the following words: 'nor shall the refusal of either party to agree to a proposal or make a concession constitute or be evidence of failure to bargain under the provisions of this act.'"

AMENDMENT NO. 470

Add the following new subsection (e) after subsection (d) on page 3:

"Section 9 of the National Labor Relations Act, as amended (29 U.S.C. 159), is hereby amended by adding at the end thereof a new subsection (f) reading as follows:

"'(f) No person or organization shall be certified by the Board as exclusive representative of employees for purposes of collective bargaining, and no employer shall be required under this Act to recognize or deal with any person or organization as such representative, unless such person or organization has been selected as such representative by a majority vote of employees in a secret ballot election, as provided for in this section.'"

ADDITIONAL COSPONSORS OF BILL AND JOINT RESOLUTION

Under authority of the orders of the Senate of September 24, 1965, the following names have been added as additional cosponsors for the following bill and joint resolution:

S. 2562. A bill to preserve the domestic gold mining industry and to increase the domestic production of gold: Mr. BARTLETT.

S.J. Res. 113. Joint resolution to establish a commission to formulate plans for memorials to the past Presidents of the United States: Mr. LONG of Missouri.

THE CRIMINAL JUSTICE ACT OF 1964

Mr. HRUSKA. Mr. President, enactment of the Criminal Justice Act of 1964 was one of this Senator's most gratifying experiences since coming to the Congress. This act takes a long step forward in the continuing effort to meet the constitutional due process mandate which requires the presence of counsel for the defense of those accused of crime, without regard to his ability to pay.

Throughout much of the lengthy struggle to get this legislation passed, my legislative assistant and later my administrative assistant was Mr. Robert J. Kutak, now in the private practice of law in Nebraska. His enthusiastic and untiring work was invaluable to those of us seeking passage of this important legislation.

It is appropriate that the first definitive article on the history and content of the legislation is his. It is published as the lead article in the July 1965 edition of the Nebraska Law Review.

In addition to tracing the development of the legislation, he has documented the steps taken to implement the legislation in the Federal courts in the district of Nebraska. The Nebraska plan, which he helped to formulate, has been approved by the Judicial Council of the Eighth Judicial Circuit and became effective on August 20, the effective date of the Criminal Justice Act.

Mr. President, this scholarly article will prove invaluable to those interested in the history and the implementation of the Criminal Justice Act of 1964. I ask unanimous consent that the article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CRIMINAL JUSTICE ACT OF 1964

(By Robert J. Kutak) *

"The right of one charged with crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours." [1]

A busy reader, scanning the pages of the Washington Post, might well have missed the story. The dateline was Panama City, Florida, August 5, 1963. The lead paragraph read: "Clarence Earl Gideon, whose handpenned appeal from prison resulted in a United States Supreme Court landmark decision which gave Florida its public defender law—and won him a new trial—was acquitted today of a 1961 breaking-and-entering charge."

Those unfamiliar with the Supreme Court decision would not have caught the significance of the story until the last paragraph: "At the opening of his new trial today, ordered by the Supreme Court ruling, Gideon was represented by prominent Panama City criminal lawyer W. Fred Turner, who was appointed by the Court at Gideon's request." At his second trial, unlike his first, Clarence Gideon had a lawyer. As a result, he was not only acquitted, he was vindicated. Gideon demonstrated what the ruling case law, up to then, had in effect denied—that a lawyer does make a difference. It is doubtful whether more proof would be needed to show that the mandate of the sixth amendment providing the right to the assistance of counsel must apply in all forums, state and federal.[2]

Whether the wire service story caught the eye of the Senate leadership on the way to the floor the morning of August 6, 1963, is a detail that will escape history. But a bill to cure many of the deficiencies regarding the right to representation in the federal court system had been on the calendar since July 10, 1963, awaiting Senate action. This was the Criminal Justice Act of 1963.[3] That afternoon, however, the bill was called up and passed. The brief Senate debate made no reference to the Gideon acquittal the previous day. Rather, to quote Victor Hugo as was so frequently done in the debate on another bill pending in the Congress, it was evident that the Senate was simply responding to "an idea whose time has come."

What idea is this? That a poor man should not be denied an opportunity to defend himself against a criminal charge because he lacks the means? He is entitled to enjoy the same protection in criminal proceedings as those having wealth. Equal protection of the law requires that such factors as the financial resources of an accused become irrelevant. Justice shall not be rationed on the basis that "them that has, gets." Simply stated—there shall be equal justice for the accused, and the government has the obligation to provide it, private means lacking, if it chooses to prosecute.

The Criminal Justice Act of 1964 [4] goes a long way towards making that idea a reality in our Federal court system. By its impact on the administration of criminal justice, it is quite possible that the act will become recognized and rank as one of the major legislative achievements in a decade spanning both the New Frontier and the Great Society and crowded with congressional actions. The Criminal Justice Act of 1964 is quite short. Behind it, however, lies a lengthy history which must be appreciated if its potential is to be widely known and its provisions are to be fully used. With the means now at hand to furnish "representation of defendants who are financially unable to obtain an adequate defense in criminal cases in the courts of the United States," [5] the bar has both a challenge and a responsibility. Will the quality of representation in court appointed cases now improve? In the process of providing the desired representation, can abuse of the provisions of the act be avoided? The purpose of this article is to suggest ways and means for doing both.

I. THE PRESENT SITUATION

In the federal system at the present time an accused person who lacks counsel, and requests one, generally is furnished a lawyer at the time of his arraignment.[6] At the proceedings before the Commissioner—presuming they are not waived—he is informed of his right to retain counsel, but it is questionable how helpful this information is when the accused is poor.[7] Counsel are appointed in a number of ways.[8] In most districts the customary procedure is to assign lawyers engaged in private practice on an individual case basis. It has been observed that: "The assignment methods vary in their success in spreading the workload throughout the bar and in picking a suitable lawyer for a particular case." [9] In districts where the criminal docket is light, a selection can be made on the basis of personal contact with the members of the bar, assuring the judge that adequate representation is afforded the accused without the practice becoming individually too burdensome. However, in districts covering large metropolitan areas,

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[1] *Gideon* v. *Wainwright*, 372 U.S. 335, 344 (1963).

[2] See "Lewis, Gideon's Trumpet" (1964) for an account of the Gideon trial and a discussion of the Supreme Court decision.

[3] Title was changed to the Criminal Justice Act of 1964, following final passage that year.

[4] 18 U.S.C.A. sec. 3006A (Supp. 1964).

[5] Public Law No. 455, 88th Cong., 2d Sess. sec. 1 (Aug. 20, 1964).

[6] Fed. R. Crim. p. 44. Compare proposed revision of the Rule, Advisory Committee on Criminal Rules, Second Preliminary Draft of Proposed Amendments 47–49 (March 1964).

[7] Fed. R. Crim. p. 5(b). Compare proposed revision of the Rule, Advisory Committee on Criminal Rules, Second Preliminary Draft of Proposed Amendments 2 (March 1964).

[8] See Note, "The Representation of Indigent Criminal Defendants in the Federal District Courts," 76 Harv. L. Rev. 570, 581–96 (1963).

[9] Id. at 581.

the likelihood of individualized appointments is practically nil. The selections may come from lists of volunteers where they can be obtained—and this, too, is rapidly affected by the frequency of the call—or by a routine selection of lawyers admitted to practice in the Federal district court. In a few districts, representation is furnished in whole or in part by privately financed legal aid societies or voluntary defender organizations. The District of Columbia has a mixed system. The Legal Aid Agency for the District of Columbia operates with appropriations from the Congress on the basis of a public defender office, but members of the bar are still individually called upon to furnish representation in a great number of cases.

The magnitude of the problem of furnishing representation throughout the federal court system cannot be underestimated. A total of 29,944 criminal cases were filed in the district courts during fiscal year 1964.[10] Approximately 30 percent of the defendants in those cases had counsel assigned to them.[11] The percentage of assignments in each judicial district, however, varies considerably. Some districts reported that more than 50 percent of the defendants were furnished counsel. A substantial number of districts had over one-third of the defendants so represented. In the district of Nebraska during fiscal year 1963, of the 142 defendants whose cases were terminated by convictions or acquittals 77 of them—or 54.2 percent—had assigned counsel.[12] This does not mean, of course, that counsel were retained in the remaining cases. The defendant frequently waived his right to counsel. The figures point out the extent to which legal services, although needed, cannot be provided by the accused in our federal court system.

Pressure on court-appointed counsel may account for the number of guilty pleas. Of the 33,381 defendants who appeared in the district courts in fiscal year 1964, 29,170 were convicted and sentenced. Of this number, 26,273 defendants were convicted by pleas of guilty or nolo contendere.[13] The Allen Committee Report observes that while:

"A higher percentage of pleas of guilty among cases in which defendants are represented by assigned counsel may reveal more about the character of the crime committed than the quality of the representation. . . . [t]he facts indicate that in all districts studied, pleas of guilty are entered much more frequently by defendants with assigned counsel than those represented by private counsel." [14]

There is such a person as a guilty defendant who comes to terms with his predicament and does not choose to prolong the day of judgment. A frank and early recognition of the desirability of this course of action may be the best advice his counsel, whether retained or appointed, can give. For this reason the Allen Committee's admonition not to draw too hasty a conclusion about the higher percentage of pleas of guilty among cases in which the defendants were represented by assigned counsel is well taken. The question is where the line is drawn. "Present practices sometimes induce a plea of guilty because appointed counsel recognize the futility of electing a contest in the absence of resources to litigate effectively." [15] When the plea is entered on the basis of poverty, not proof, a problem of adequate representation arises. The need for counsel, moreover, would not wane at the time of plea. Obviously, without the help of a lawyer throughout the subsequent stages of the proceedings, the interests of a defendant may be severely prejudiced. The consequence of the disparity in the quality of those services or their deprivation altogether is not lost on the guilty.[16]

It is unnecessary here to retrace in detail the struggle to secure the right to counsel which is now enjoyed. This has been done expertly in a previous article in the Nebraska Law Review and elsewhere.[17] As Justice Douglas stated: "The sixth amendment's provision that in all criminal prosecutions the accused shall enjoy the right 'to have the Assistance of Counsel for his defense' is the beginning of our problem." [18] For a long period in our history this provision in the Constitution stood only for the right to retain counsel and left those who did not have the means defenseless.[19] A notion that poverty was somehow a personal fault contributed to the early thinking on the subject and the case law lingered long after the attitude was rejected.[20]

The first major breakthrough occurred in *Powell* v. *Alabama*,[21] the celebrated Scottsboro case. By a seven to two vote the Supreme Court held:

"That in a capital case, where the defendant is unable to employ counsel, and is incapable adequately of making his own defense because of ignorance, feeblemindedness, illiteracy or the like, it is the duty of the court, whether requested or not, to assign counsel for him as a necessary requisite of due process of law; and that duty is not discharged by an assignment at such a time or under such circumstances as to preclude the giving of effective aid in the preparation and trial of the case." [22]

Justice Sutherland's language in *Powell* v. *Alabama* is among the classics in the literature on the right of representation. It is deservedly cited often:

"The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. Even the intelligent and educated laymen has small and sometimes no skill in the science of law. If charged with crime, he is incapable generally of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence. Left without the aid of counsel, he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he may have a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he may not be guilty, he faces the danger of conviction because he does not know how to establish his innocence." [23]

However, the facts of the case rather than the force of the argument controlled. It was established that, so far as the state courts were concerned, the fourteenth amendment only required the appointment of counsel in capital cases. The states were otherwise left to settle for themselves whether, under the particular facts and circumstances of each case, due process required the appointment of counsel.[24]

This rule was destined for reversal. It came in *Gideon* v. *Wainwright*.[25] Speaking in a concurring opinion, Justice Clark observed: "The Court's decision today, then, does no more than erase a distinction which has no basis in logic and an increasingly eroded basis in authority." [26] Justice Black rendered the opinion for a unanimous Court. The drama of the hour was relished by those who lived for this decision. He stated the case in language that will be remembered as long as there is liberty and justice for all:

"[R]eason and reflection require us to recognize that in our adversary system of criminal justice, any person hailed into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him. This seems to us to be an obvious truth. Governments, both state and federal, quite properly spend vast sums of money to establish machinery to try defendants accused of crime. Lawyers to prosecute are everywhere deemed essential to protect the public's interest in an orderly society. Similarly, there are few defendants charged with crime, few indeed, who fail to hire the best lawyers they can get to prepare and present their defenses. That government hires lawyers to prosecute and defendants who have money hire lawyers to defend are the strongest indications of the widespread belief that lawyers in criminal courts are necessities, not luxuries. The right of one charged with

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[10] See Annual Report of the Director of the Administrative Office of the U.S. Courts, 147 (1964).

[11] See Judicial Conference of the United States, report of the ad hoc Committee, H.R. Doc. No. 62, 89th Cong. 1st sess. 91 (1965) [hereinafter cited as Judicial Conference Report]: "These figures and percentages [citing comparable statistical information] are not considered by the Committee to be a reliable estimate for the future. First of all, they do not take into consideration the entirely new provision in the act requiring the assignment of counsel at the level of the U.S. Commissioner. Nor do they take into account the likelihood that in the future and in order to protect the record, courts and commissioners will be less inclined to accept waivers of counsel by defendants who appear before them."

[12] Statistics for the previous fiscal years for District of Nebraska:

Fiscal year	Defendants cases terminated	Assigned counsel	Percent
1962	112	57	50.9
1961	134	78	58.2
1960	140	54	38.6

[13] See Annual Report of the Director of the Administrative Office of the U.S. Courts, 256 (1964).

[14] See Report of the Attorney General's Committee on Poverty and the Administration of Federal Criminal Justice, 28–29 (1963) [hereinafter cited as Allen Committee Report].

[15] Id. at 29.

[16] See S. Rep. No. 346, 88th Cong., 1st Sess. 6 (1963). Statement of Attorney General Kennedy: "The [Department of Justice] study showed that pleas of guilty are entered much more frequently—in some areas three times as often—by defendants with assigned counsel than those represented by paid private counsel who have both the facilities and the incentive to make independent investigations. Defendants with appointed counsel, the study also showed, had less chance to get charges against them dismissed, less chance of acquittal when they went to trial, and greater chance, if convicted, of being sent to jail instead of being placed on probation."

[17] See Fellman, "The Constitutional Right to Counsel in Federal Courts," 30 Neb. L. Rev. 559 (1951). See also Beaney, "The Right to Counsel in American Courts" (1955); Morris, "Poverty and Criminal Justice," 38 Wash. L. Rev. 667 (1963).

[18] See Douglas, Foreword to "The Right to Counsel: A Symposium," 45 Minn. L. Rev. 693 (1961).

[19] See "Equal Justice for the Accused, Report of a Special Committee of the Association of the Bar of the City of New York and the National Legal Aid Association," 41–43 (1959).

[20] See Hoadley, "Is the Right Against Poverty Another Constitutional Right?" 49 A.B.A.J. 1192 (1963).

[21] 287 U.S. 45 (1932).

[22] Id. at 71.

[23] Id. at 68–69.

[24] *Betts* v. *Brady*, 316 U.S. 455 (1942).

[25] 372 U.S. 335 (1963).

[26] Id. at 348.

crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours." [27]

A quarter of a century before, the Supreme Court had established the governing rule in the federal court system. In *Johnson* v. *Zerbst*,[28] the Court interpreted the sixth amendment to entitle the accused to counsel in all federal criminal cases. If an accused appears without counsel, and he does not knowingly waive his right to counsel, the court will lose jurisdiction to proceed. If a conviction is secured under these circumstances, the judgment is void. The sixth amendment's provision that the accused shall enjoy the right "to have the Assistance of Counsel for his defence" was held to mean that counsel must be appointed to represent a defendant who cannot afford to hire a lawyer and who does not waive his right to representation. Gideon brought the state practice alongside the federal practice and current with the times.

II. THE SEARCH FOR AN ADEQUATE REMEDY

Faced with the necessity of furnishing counsel, the Federal courts began the program of court appointments which thrust the burden of providing representation entirely on the practicing bar. With only minor exceptions,[29] no provision existed to reimburse counsel for his out-of-pocket expenses. Nor could he be compensated for the time involved in the preparation and presentation of the case. While the ruling in *Johnson* v. *Zerbst* clearly called for more than a ritualistic performance by counsel, the means to provide it other than out of the lawyer's own resources were totally lacking. An open invitation to find a method was presented.

Quite recently two "test cases" in district court have arisen. In *United States* v. *Germany*,[30] Judge Frank M. Johnson of the middle district of Alabama dismissed an indictment because the Government failed to pay the expenses of the defendant's court-appointed attorney to interview witnesses and view the scene of the alleged crime. He reasoned that implicit in the assistance of counsel doctrine is the opportunity for the lawyer to prepare his case. Whether counsel was afforded that opportunity in this case turned on the availability of Government funds to pay the expenses required. The failure to provide the necessary funds prevented counsel from furnishing the assistance to which the accused was entitled under the sixth amendment. The reasoning was difficult for the Government to deny, grave as the consequences would be.[31]

Judge William G. East, of the district of Oregon, in *Dillon* v. *United States*,[32] tried another route. In a hearing on a motion to vacate sentence under 28 U.S.C. 2255 (1958), where it was previously ruled an error not to appoint an attorney, Judge East designated a lawyer and at the conclusion of the case suggested that he apply for compensation for his services on an eminent domain theory. Holding that the appointment of counsel to represent a defendant was in fulfillment of the government's obligation to furnish a lawyer to an indigent person and the legal services provided constituted a taking of compensable property under the fifth amendment, he entered a judgment against the United States for the lawyer's time and expenses.[33]

Before further cases appeared in the reports, the Criminal Justice Act of 1964 became public law. While these decisions came too late in the day to have a substantial effect on the course of congressional action, they did serve the purpose of focusing attention on the consequences of continued neglect of the problem. So much of the substance of the Criminal Justice Act of 1964 has its origin in earlier legislative proposals and so much of the logic for the act can be found in this history that to adequately comprehend the statutory provisions it is necessary to examine those proceedings.

The first traces are found in a resolution adopted by the Judicial Conference of the United States at its September 1937, meeting.[34] It urged the enactment of a public defender system in those districts where the volume of criminal cases justified an appointment. The Judicial Conference recommended that elsewhere counsel be appointed on an individually assigned basis with compensation for services involving substantial time and effort. This proposal, which anticipated the ruling in *Johnson* v. *Zerbst*, was renewed by the Judicial Conference with little basic change through the years. The resolution attracted negligible opposition, but neither did it arouse appreciable interest. The resolution was adopted at the suggestion of Attorney General Homer Cummings. Each of his successors, through Nicholas deB. Katzenbach, has favored similar action. Indeed, the proposal was associated with many criminal law reform efforts.[35]

In March, 1949, the Senate reported a bill without the public defender provision. It authorized the court to compensate counsel who was appointed, at the request of the defendant, to the extent of fifteen dollars for services devoted to preparation for trial or a plea and in an amount not to exceed twenty dollars per day for the days actually required in court for trial. Fellman concluded his article, "The Constitutional Right to Counsel in Federal Courts," on a note that the bill was languishing on the calendar, and wondered "why such a modest bill of such obvious merit should take such a long time getting through Congress." [36] As it happened, the struggle would involve another thirteen years.

In succeeding Congresses the quest for legislation primarily focused on a provision for a public defender system. The first measure to be passed by the Senate occurred in the second session of the 85th Congress. The action came too late in the session to receive House consideration. The bill S. 3275, was patterned after legislation which had been introduced but never acted upon in earlier Congresses. It authorized each United States district court to appoint a public defender. He could be a full or part-time defender, depending upon the need. Provision was also made for assistant defenders as required. The court would assign the cases to the public defender, and he would be responsible for all phases of the proceedings, including appeal. If the needs of the district were considered adequately and economically covered by an individual assignment of counsel, however, the court could continue to follow this practice. In determining which system to adopt, the principal factor was to be whether the district had a city of 500,000 population. The salary of the public defender was set at 10,000 dollars a year; assigned counsel would receive up to thirty-five dollars a day for services. The cost of the program was estimated to be approximately one million dollars.

In contrast with its attitude in 1949, the Senate this time had no difficulty in accepting the public defender system. The recommendations of the Judicial Conference and the Department of Justice in the intervening years had had a substantial effect. The argument that the current system of assigned counsel without compensation was working an undue hardship on attorneys with experience, as well as putting the defendants at a severe disadvantage, could not be ignored. Related bills provided larger amounts of compensation and made grants to legal aid societies and similar groups furnishing legal services, but the Senate was not ready to accept these ideas.

On April 28, 1959, an identical bill—S. 895—was favorably reported by the Senate Judiciary Committee. At the time the bill was on the floor, it was observed that the measure "may not, in this form, fulfill all the ambitions or realize all the desires of a public defender system. * * * But to the end that it safeguards and promotes the rights established under the sixth amendment to the Constitution, this bill deserves the unanimous support of the Senate." [37] But notwithstanding the growing congressional interest in such legislation, the measure died in the House.

The House Judiciary Committee held hearings in May, 1959, on four bills reflecting different approaches to the representation problem. Despite the sponsorship of the House counterpart of S. 895 (H.R. 4185) by the chairman of the Judiciary Committee, opposition to any system providing for the appointment of a public defender was strong. As an alternative, a bill limited to affording compensation to assigned counsel was favored by a majority of the committee. The bill had no ceiling on the rate of compensation to be provided, although the author of the bill indicated he would accept one rather than report no bill at all. Instead of taking action, however, further study of the problem of the right to representation was ordered by the committee—presumably for the sponsors of H.R. 4185 to gather enough em-

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[27] Id. at 344.

[28] 304 U.S. 458 (1938).

[29] See 28 U.S.C. sec. 753(f) (1958)—transcript to be furnished persons permitted to appeal in forma pauperis to be paid by the government; Fed. R. Crim. p. 15(c)—lawyer's travel and subsistence to take a deposition to be at government expense; Fed. R. Crim. p. 17(b)—subpoena and witness fees incurred for the defense to be at government expense.

[30] 32 F.R.D. 421, enforcing 32 F.R.D. 343 (1963).

[31] See testimony of Attorney General Kennedy, Hearings Before Subcommittee No. 5 of the House Committee on the Judiciary, 88th Cong., 1st Sess., ser. 3 at 45 (1963) [hereinafter cited as 1963 House Hearings]: "There are going to be cases thrown out all over the country if this [decision] is followed and it makes a good deal of sense, I must admit."

[32] 230 F. Supp. 487 (1964), rev'd on appeal,—F.2d—, 33 L.W. 2673 (9th Cir. 1965).

[33] See Comment, 78 Harv. L. Rev. 1654 (1965), wherein the ramifications of the Dillon theory, if valid, would suggest that the limits on compensation provided in the act may likewise be unconstitutional. It is important to re-emphasize, however, that the situation confronting the court in Dillon is not covered by the Criminal Justice Act of 1964. 18 U.S.C.A. sec. 3006A(a) (1964). For another reaction, see New York Times, March 27, 1965, p. 24, col. 1, reporting citation of contempt of a Paterson, N.J., lawyer by a county judge for refusing to take an assignment as counsel to a defendant in a criminal case. The lawyer maintained "he was seeking to prove that lawyers were entitled to receive compensation even as assigned counsel."

[34] See Report of the Judicial Conference of the United States, 8–9 (September sess. 1937).

[35] See Bennett, "Of Prisons and Justice, To Secure the Rights to Counsel," S. Doc. No. 70, 88th Cong., 2d sess. 123 (1964). From the inception Mr. James V. Bennett was indefatigable in his efforts to secure remedial legislation in this field and for many years worked almost singlehandedly to develop a public awareness of the gravity of the right to counsel problem. In large part the eventual passage of the act can be attributed to his persuasive pleas.

[36] Fellman, supra note 17, at 599.

[37] CONGRESSIONAL RECORD, vol. 105, pt. 7, p. 8573 (remarks of Senator HRUSKA).

pirical evidence and muster enough public support to report the bill.[38] Finding that the study changed few minds in the committee, the chairman decided to forgo any action at that time.

While the House Judiciary Committee could not be persuaded as to the wisdom of public defender legislation, the 86th Congress did pass the District of Columbia Legal Aid Act.[39] Designed as a mixed public and private system of representation and styled—with foresight—as a legal aid agency, the legislation authorized in fact a public defender program for the District of Columbia. The district presents unique problems in the Federal court system. The jurisdiction of the courts is much broader and, consequently, the criminal case load is much heavier. Still the concept which seemed to be an anathema to a majority of the members of the House Judiciary Committee was accepted by the House Committee on the District of Columbia without difficulty.[40] Provision was also made for a complete staff. No compensation, however, was allowed lawyers who were assigned cases on an individual basis. The bill was passed by the Congress with scant debate. The program in the District of Columbia has since been widely acclaimed and considered in many respects a model for later legislation. Unfortunately, however, the experience of the agency left little impression on key members of the Judiciary Committee.

On March 29, 1961, Senator COTTON of New Hampshire, Senator Keating of New York and later Senator ERVIN of North Carolina joined Senator HRUSKA in the introduction of S. 1484, a revised version of the measure that had passed the Senate in the previous Congress. The revision reflected numerous recommendations contained in the House Report, "Representation for Indigent Defendants in Federal Criminal Cases." This bill was the first substantial departure from the form of legislation previously introduced in the Congress. It was versatile and comprehensive. The test adopted for the availability of legal services was whether a person was "financially unable to employ counsel," although the term "indigent" was still used throughout the bill. The public defender was required to appear at every stage of the proceedings, including the preliminary hearing. His salary was to be comparable to the salary paid to the United States Attorney in the same district. Similarly, the term of office was set at four years in an effort to place these officers on as equal a footing as possible. Reimbursement for expenses included the costs of technical experts required in a defense which are "reasonably incurred." Appointments, when made on an individually assigned basis, were to be from among lawyers having five or more years of experience. The compensation was increased to a sum not in excess of $50 a day with a provision for reimbursement of expenses that included the costs of hiring experts. The test for providing representation on appeal, previously stringent, was broadened to a "not plainly frivolous" rule.

The Committee on the Administration of the Criminal Law of the Judicial Conference of the United States met in January, 1962, to discuss S. 1484 and related legislation which had been introduced in the Congress. The bills were analyzed and out of the discussions emerged specific recommendations for amendments. Shortly afterwards Senator HRUSKA (again joined by Senator COTTON, Keating and ERVIN) introduced a new bill, S. 2900. It was to apply, for the first time, to defendants who were financially able to retain counsel but could not hire a lawyer on account of the unpopularity of their cause. In addition, the bill eliminated a test for representation on appeal. The per diem compensation for court-appointed counsel was increased to one hundred dollars. The purposes of the latter amendments were to assure continuing representation and to encourage the appointment of qualified counsel.

Further changes were made in committee before reporting the bill. The appointment of the public defender was to be confirmed by the Senate.[41] Provision was made for court-appointed counsel to be reimbursed for investigators as well as experts used in the preparation of a defense. The public defender was also furnished this service. The bill also provided that the public defender or the court-appointed counsel should not accept payment for services from the defendant without obtaining court approval. This last amendment had the effect of broadening the coverage of the bill to include others besides the indigent. The bill was passed by the Senate on October 4, 1962, but by that time the sponsors could do no more than make a record for consideration of the measure in the next Congress.

By tradition, bills are not introduced in a new Congress until the President has delivered his state of the Union address. President Kennedy addressed a joint session of the Congress on January 14, 1963. It was his last state of the Union message. Among his recommendations, he urged that "[t]he right to competent counsel must be assured to every man accused of crime in Federal court, regardless of his means."[42] The same afternoon, Senator HRUSKA, again joined by his three colleagues, Senators COTTON, Keating and ERVIN, reintroduced his bill to provide representation for defendants who were unable to retain counsel. It was, in virtually all respects, the same measure as passed the Senate the previous October. The number assigned to it had been reserved by the sponsors—S. 63.

The formal call for action from the President was the turning point in the history of this legislation. The optimism was apparent in Senator HRUSKA'S remarks when reintroducing his bill:

"To those of us who have urged passage of this bill, and have worked to that end for several years, the remarks of the President in his state of the Union message this afternoon were understandably gratifying. The expressed declaration of administration support of this effort, coupled with that of the American Bar Association and the Federal judiciary will, I am confident, increase the prospects for passage by both Houses in the current session."[43]

The American Bar Association made the passage of the public defender bill its primary legislative project for the year. At its midwinter meeting in New Orleans, Louisiana, the House of Delegates voted unanimously to support such legislation and to participate actively to secure its passage. It is apparent from the widespread attention given the problem of adequate representation in the sessions and publications of the American Bar Association in subsequent months that its work was instrumental in maintaining the momentum which would prevent the bill from faltering as it had in the past.

Another decisive factor in developing a new attitude towards the problem of representing the poor was the report and recommendations of the Allen Committee. Early in the Kennedy administration, Attorney General ROBERT KENNEDY appointed a special committee to study the problems plaguing indigent defendants prosecuted in federal courts. Its report, "Poverty and the Administration of Federal Criminal Justice," proposed far-reaching reforms in many areas of concern to the Department of Justice. One of the specific proposals—and perhaps the major concern of the Allen Committee—was for more adequate representation of the poor. Its recommendations for a proper defense of the poor, which were put in the form of draft legislation, became the framework for the Criminal Justice Act of 1964.

The Allen Committee's appraisal of the need for immediate legislative action was cogent and concise:

"Although *Johnson* v. *Zerbst* did not resolve all issues relating to the constitutional rights of counsel in the federal courts, the fundamental obligation of the federal government was clearly and unmistakably indicated. It is a matter for legitimate concern therefore, to discover that, except for legislation restricted in its application to the District of Columbia, Congress has as yet done little to implement the constitutional commands by placing the defense of financially disadvantaged persons on a systematic and satisfactory basis and that the federal statutes leave us little closer to the solution of these basic problems today than was true a quarter-century ago when *Johnson* v. *Zerbst* was decided."[44]

III. EFFORTS TOWARDS ENACTMENT

The Allen Committee drafted the most flexible and comprehensive plan yet considered. It came to the Congress with the highest endorsements—a cover letter from Attorney General KENNEDY to President Kennedy, dated March 6, 1963, and a message from the President to the Vice President and the Speaker, dated March 8, 1963. The Attorney General reminded the President of his call for action in his state of the Union message, recited the long struggle to round out the rights of the accused who were too poor to protect their own interests, pointed to the decisions requiring such representation, mentioned the committee which had developed a draft bill, reviewed the defects in the present criminal practice, and described the main features of the proposed legislation.[45] The President transmitted the legislation to the Congress and recommended its prompt consideration, saying: "Its passage will be a giant stride forward in removing the factor of financial resources from the balance of justice."[46]

While the Allen Committee draft contained many features that were found in earlier bills, it had several important innovations. First, retaining the principle of flexibility regarding the methods for providing counsel, the number of "local options" was increased. Besides the previously designated systems of private attorneys and public defenders, bar associations, legal aid societies, and local defender organizations were included as additional alternatives and

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[38] See "Hearings Before Subcommittee No. 2 of the House Committee on the Judiciary," 86th Cong., 2d sess., ser. 13 (1960).

[39] 74 Stat. 229, 43 U.S.C. 620(d) (1960).

[40] To the extent even that the provision for salary of the Director of the Legal Aid Agency was substantially more liberal than either body was willing to allow in the public defender legislation—$16,000. The figure placed the official on a level comparable with the local U.S. attorney.

[41] The confirmation procedure was an effort on the part of the sponsors of the public defender system to allay fears that the appointment would be a "step towards the police state" or that the public defender would come under the domination of the court to the detriment of the defendant. The assumption was that Senate confirmation would signify and secure independent standing for the official. However, later events showed that such efforts to satisfy objections to the system produced no change of attitude on the part of those opposing the concept.

[42] CONGRESSIONAL RECORD, vol. 109, pt. 1, p. 172.

[43] CONGRESSIONAL RECORD, vol. 109, pt. 1, p. 244.

[44] Allen Committee Report, 14.

[45] See S. Rept. No. 346, 88th Cong., 1st sess. 10–13 (1963).

[46] Id, at 10.

provision was made for a combination of any of these programs. Second, the standards for an adequate defense embraced more than simply providing a lawyer and permitting him to hire investigators or experts as needed. The resources were expanded to include "investigative, expert, and other services necessary to [prepare and present] and adequate defense." Third, representation was to be provided at every stage of the proceeding, commencing with the initial appearance before the United States Commissioner and continuing through the final appeal to assure early and continuous assistance of counsel. Fourth, the concept of indigency associated with previous bills was avoided. The test, as it was uniformly stated in the bill, became "persons financially unable to obtain an adequate defense." The bill recognized that some defendants were completely destitute; others become so during the proceedings; and still others could pay some, but not all, of the expenses incurred in their defense. The bill thus became operative to whatever degree was appropriate to assure that, in light of the circumstances, an adequate defense was afforded.

The legislation was introduced in the Senate on March 11, 1963, by Senators EASTLAND and HRUSKA and was numbered S. 1057. The same proposal was introduced in the House by the chairman of the Judiciary Committee, Congressman CELLER, on March 13, 1963, and was numbered H.R. 4816. Both committees promptly held hearings.[47] In the Senate there was never much doubt that the bill, substantially in the form that it was introduced, would be approved. Except for the provision affording counsel for the defendant with an unpopular cause, S. 63 was displaced by the new bill. Only one witness in the hearings urged the inclusion of the "unpopular cause" provision in whatever bill was to be reported.[48] It was not incorporated in S. 1057, as reported, however, because of the lack of evidence indicating its need.

The purpose of the Senate hearings was primarily to pinpoint the meaning of the new provisions in S. 1057, rather than to persuade the committee members to accept such legislation. One witness voiced concern about the public defender provision.[49] His contentions, however, were challenged by succeeding witnesses.[50] The concept of a public defender system was sympathetically viewed by the committee. It became a matter only of devising a program so narrowly applicable as to overcome the anticipated House objection.

The testimony of Judge Smith pointed out the direction the committee followed in this regard. Stressing that the burden of administration of the act would largely fall upon the judiciary, Judge Smith suggested that no appointment of a full- or part-time public defender be designated without express authorization by the Judicial Conference. This is the procedure followed in the designation of referees in bankruptcy, with their number set strictly by the needs of the district.[51] The original proposal of relating the appointment of a public defender to the population in a district was not viewed as effective as a case load criterion. A figure of one hundred criminal cases was suggested as a workable basis, under which about thirty-two districts would qualify to select a public defender program—assuming they would prefer this system.[52]

The hearings on the other side of Capitol Hill developed strenuous opposition to the public defender system.[53] Moreover, while it was accepted that counsel should be compensated,[54] the notions as to the costs of the bill to provide "adequate representation" and the time it would take to afford "adequate representation" sharply differed.[55] In view of the range of criticism leveled at the public defender program in the House hearings, it became apparent that—at least in the form in which it was introduced—the provision was headed for trouble.

The Senate Judiciary Committee began to mark up the bill almost at once. The sponsors did not want to be disadvantaged by delayed action, particularly if the bill was headed for conference over the public defender provision. The later the conference, the less the chance to break a deadlock. Working closely with representatives from the Deputy Attorney General's office,[56] Senator HRUSKA redrafted S. 1057 in large part. Three major amendments were incorporated. First, in an effort to preserve the option of a public defender plan, the choice was restricted to those districts having a case load of 150 or more appointments (18 in number) which could show that no other system of representation was more efficient and economical. Second, the provision for services other than counsel was broadened to authorize the court to ratify such defense services when circumstances did not permit prior approval. Third, in recognition of the diversified character of the judicial districts, the commissioners were given the authority, not only to appoint counsel, but to approve defense services when the power is specifically delegated by the court.

Because of the innumerable "perfecting" amendments which came up, it was decided to offer an amendment in the nature of a substitute bill. A large majority of the committee joined in co-sponsorship. S. 1057 was reported unanimously on July 10, 1963, and was passed less than a month later. As stated by the manager of the bill during the Senate debate,

"S. 1057, as reported with an amendment in the nature of a substitute, is the product not only of past experience with public defender legislation introduced in this body but of extended hearings before the Judiciary Committee and consultation with my colleagues on both sides of the aisle and in both Chambers of the Congress. It is carefully drawn to avoid abuse while seeking to remedy a chronic problem of serious proportions in our Federal courts. * * * We have been impressed with the conscientious attitude the Federal courts have demonstrated towards establishing prudent systems within their respective districts. We are mindful, on the other hand, that the assumption of this responsibility will not be without costs. But these costs * * * are rightfully to be borne if the realization—not merely the aspiration—of equal treatment for every litigant is to be achieved." [57]

The Chairman of the House Judiciary Committee sensed from the beginning that it would be impossible to report a bill containing any provision for a public defender plan.[58] A new bill was introduced by Congressman ARCH MOORE in mid-summer. Reflecting the views expressed by a number of committee members during the hearings, the bill substantially reduced the scale of operations as originally proposed by the Criminal Justice Act. The Moore bill, with amendments, was reported by the committee. The public defender option was deleted altogether. The rate of compensation was designated as ten dollars per hour for time spent out of court and fifteen dollars per hour for time spent in court, with an overall

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[47] See hearings on S. 63 and S. 1057 before the Senate Committee on the Judiciary, 88th Cong., 1st sess. (1963) [hereinafter cited as 1963 Senate Hearings]. 1963 House Hearings were held on May 22, 1963.

[48] See testimony of Monrad Paulsen, Columbia University School of Law, 1963 Senate Hearings 116.

[49] See testimony of Hon. Edward J. Dimock, senior U.S. dist. judge for the Southern District of New York, id. at 33.

[50] See testimony of Whitney North Seymour, director of the New York Legal Aid Society and chairman Special Committee on Defense of Indigent Persons Accused of Crime, id. at 74: "I would comment on Senator HRUSKA's question that I don't think there is any real basis for concern that a public defender, selected as these bills contemplate, would be subservient to the prosecutors. I am sure that the public defenders do a fine job for their clients. The concern that has been expressed about that by my friend Judge Dimock and others is largely, I think, theoretical and not based upon any actual experience. Because in actual experience, the public defenders work very well." See also testimony of Hon. William F. Smith, judge, Third Circuit, U.S. Court of Appeals, id. at 171: "Senator, I read Judge Dimock's remarks and I do not agree. True, the public defender is going to be paid by the same government as the U.S. attorney is paid. His income will come from the same source. But my income comes from the same source when I sit as judge. But if I let this in any way influence my judgment in a particular case then I do not deserve to be a judge in the first place. I think that would be also true of a public defender. If it reaches the stage where they become collaborating colleagues, then it is time that that public defender should be removed. And there is the power of removal in the statute as proposed by the Attorney General, and yours could be amended by making the same provision."

[51] See testimony of Judge Smith, id. at 159; see also supplemental statement, id. at 178.

[52] The figure is based on the number of assigned counsel in fiscal year 1962, the last available data when the committee was conducting its hearings.

[53] For the range of views see generally 1963 House hearings. Testimony of Gene A. Picotte, president of the Montana Bar Association, id. at 23; Hon. BASIL WHITENER, Congressman from North Carolina, id. at 63; Hon. RICHARD H. POFF, Congressman from Virginia, id. at 66; Hon. ARCH A. MOORE, Congressman from West Virginia, id. at 88; Examination of Mr. Seymour by Congressman MCCULLOCH, id. at 97; and testimony of Judge Dimock, id. at 103. The question was discussed with practically all of the witnesses who appeared at the hearing.

[54] See statement of Congressman MCCULLOCH, id. at 143: "I think the entire subcommittee and all of the committee have long since made up their minds that an attorney assigned by a court to defend a defendant who has not the money to pay for that defense should be compensated and compensated reasonably well. In view of the lack of time and commitments that all of us have later this evening, I would admit that without further proof."

[55] See statement of Congressman POFF, id. at 69: "Now, if we assume that each attorney would spend 1 hour in his office and 1 hour on each of these cases, the $25 fee would amount to $250,000 a year. Of course, in a complicated felony case, the time expended and the cost involved might be substantially greater than the average, especially if appeals are involved. However, it is equally true that in many cases, if not most cases, less than an hour of courtroom practice and less than $15 in fees may be involved."

[56] Messrs. Daniel J. Freed and Herbert Hoffman were in continuous contact with both the House and Senate sponsors of the legislation and furnished invaluable advice and assistance at each phase of its development. Without their labor and understanding of the legislative mystique, the ultimate product undoubtedly would have been far less comprehensive than it now is.

[57] CONGRESSIONAL RECORD, vol. 109, pt. 11, pp. 14222–14224 (remarks of Senator HRUSKA).

[58] See 1963 House Hearings 84.

limitation to be paid an attorney of 500 dollars in a felony case and 300 dollars in a misdemeanor case. The defense services were made available only to counsel assigned by the court. The bill was reported on October 24, 1963. A rule was granted on December 4, 1963, but no further effort was made to proceed with the measure that year.

The debate on H.R. 7457, as the House bill was numbered, took place on January 15, 1964. Two amendments were accepted from the floor. The first limited the payment of fees for defense services to the same amounts allowed lawyers in the case; the second prohibited the appointment of a Member of Congress from serving in any case covered by the act. The debate itself reflected a range of views from outright cynicism [59] to a practical recognition that the measure probably was the best that could be obtained.[60] The forceful position of the committee minority report was not pursued on the floor.[61] The merits of a public defender system were extensively debated, but no one offered to amend the bill to incorporate the program worked out in the Senate bill. Similarly, the restriction placed on the defense services was not altered. It is particularly surprising inasmuch as the committee amended the bill to permit counsel to be appointed who originally had been retained, recognizing the problem of changed financial circumstances. The ceilings placed on the overall payments to counsel remained without change. The author of the legislation stated in the debate, furthermore, that the limitation applied to each case, although the language of the measure read "to the attorney." [62]

The bill was sent to conference for resolution of the differences.[63] No action was taken, however, until August of 1964, nearly seven months later. The civil rights debate had shifted early in 1964 from the House to the Senate, which contributed to the delay. The conferees used the available time, however, to find a solution for the major points of difference between the two bills. Over the spring and summer months they informally reached an agreement on all the issues except the matter of a public defender program.[64]

The Senate conferees spared no effort to find a middle ground for the public defender program. Their final proposal would have placed the public defender program on an experimental basis to afford an opportunity to determine whether it had in actual practice the advantages claimed or the dangers charged. So the Congress would not lose control of the program in the process, a trial period of 5 years was set, with the program automatically expiring unless affirmatively renewed at that time. The program was also limited to a maximum of five districts. For a district to qualify, it had to make at least 150 court appointments annually. Further, its selection of the plan had to be approved by the Judicial Conference of the United States. Moreover, the program was to be supplemented by an assigned counsel system to avoid preempting the services available by the bar. But no plan proved acceptable to key members of the House conference. The most that was managed was the inclusion of language in the Conference report, inviting the Department of Justice to continue its study of the need for the system in light of the program authorized by the act and to cooperate with the Judicial Conference of the United States to determine whether a public defender program continued to have validity and value.[65]

Hence a 27-year struggle to secure some kind of a public defender system in the Federal district courts was put over until another day. It is understandable why the interest in a public defender program overshadowed the deliberations on the other provisions of the bill. Despite sincere differences of opinion as to the merits of the respective approaches taken by the House and the Senate, and the adequacy of the language ultimately worked out, such provisions emerged in a form capable of realizing the desired objectives. More than that, in the form adopted, they satisfy the overall purpose of removing the penalty which poverty imposes upon a defendant in a criminal case. On the other hand, by delaying the day when a public defender plan is available to certain districts, the Congress passed up an opportunity for the courts to cope directly, effectively, and economically with their expanding criminal caseloads. The provision permitting the designation of bar associations and legal aid agencies will, on the other hand, allow some degree of needed flexibility and, together with the provision for compensation of attorneys, will afford a greater capability than now available to overcome the glaring defects in the present system.[66]

The Conference report was submitted on August 6, 1964, 1 year to the day after the Senate passed the bill. No time was lost in taking up the report. The House moved first, quickly accepting the report but not before Congressman MOORE commented on its tenor.[67] The Senate acted the same afternoon.

The spirit with which the finishing touches were added to the legislative history of the bill was in the best Senate tradition:

"The case for this legislation is easy to state: we are a nation dedicated to the precept of equal justice for all. Experience has abundantly demonstrated that, if this rule of law, will hold out more than an illusion of justice for the indigent, we must have the means to insure adequate representation

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[59] CONGRESSIONAL RECORD, vol. 110, pt. 1, p. 474 (remarks of Mrs. GRIFFITHS) "I am not opposed to every defendant having counsel, but in my judgment the bill will not produce any better counsel for $500 than any Federal judge could provide for nothing * * *. [T]his is likely to become a racket."

[60] CONGRESSIONAL RECORD, vol. 110, pt. 1, p. 454 (remarks of Mr. CORMAN) "I would just like to say, I support this legislation. I have always felt that half a loaf was better than none, but this is the first time I have had to make a choice between a thin slice and none at all."

[61] See H.R. Rept. No. 864, 88th Cong., 1st sess. 10–12 (1963).

[62] CONGRESSIONAL RECORD, vol. 110, pt. 1, p. 447 (remarks of Mr. MOORE answering a question whether the limitation placed in the bill is to be $500 for each case or each lawyer) "In order that the record might be clear, and as the bill is written, it is $500 per case." Compare the statement of Mr. POFF, CONGRESSIONAL RECORD, vol. 110, pt. 1, p. 457, in offering his amendment limiting the compensation to be paid for defense services: "Immediately above the language proposed, on the same page the committee saw fit to place a limitation upon the total compensation which the assigned or appointed counsel could obtain. In the case of a felony the maximum is to be $500 and in the case of a misdemeanor the maximum is to be $300." It is clear that there may be multiple defense services provided—with each person so rendering the service entitled to receive compensation not to exceed $300—and it is also clear that multiple lawyers may be furnished an accused with each attorney entitled to be compensated at a rate not to exceed the maximum provided. The language of H.R. 7457 read: "The Court shall, in each instance, fix the compensation and reimbursement to be paid to the attorney, provided, however, that the total compensation to be paid to the attorney for such representation shall not exceed $500 in case of a felony and $300 in case of a misdemeanor." See also 18 U.S.C.A., sec. 3006A(c) (1964). The assumption throughout the debate was that ordinarily not more than one attorney would be appointed in each case. Provision is made, however, for the appointment of more than one attorney. See 18 U.S.C.A., sec. 3006 A(a)-(b) (1964).

[63] Senate conferees were Senators EASTLAND, ERVIN, HART, HRUSKA and Keating. House conferees were Congressmen CELLER, RODINO, ROGERS, MCCULLOCH and MOORE.

[64] There were 13 points of difference. The Senate agreed to the House version as follows: hourly rate of compensation reduced to $15 per hour in court, $10 per hour out of court; limitation on services other than counsel reduced to $300 in all cases; all appointments of counsel made from a panel of attorneys established by the court; deletion of reference to "other local defender organizations" and substitution of the generic term "legal aid agency"; and express provision for appointment of counsel if defendant with retained counsel exhausts his funds during the course of proceedings. The House agreed to the Senate version as follows: the availability of defense services to all defendants who cannot afford them regardless of whether they have appointed or retained counsel; no restriction on participation by Members of Congress, coverage extended to felonies and misdemeanors, but not petty offenses; provision for supervision of representation by judicial councils of the circuits and for Judicial Conference approval of plans with power to issue rules and regulations; and representation provision to be effective within not more than 1 year. The Senate version had required, moreover, that all claims would be supported by written statements; the House version, by affidavits. It was agreed to have attorneys submit statements but claims for defense services would be supported by affidavits. The Senate version had no limitation on the maximum counsel fees available; the House provided $500 for a lawyer in a felony case and $300 for a lawyer in a misdemeanor case. The House version was accepted with a proviso that additional compensation would be afforded in extraordinary circumstances if approved by the Chief Judge of the circuit; and a fee not in excess of the same limits was provided for appellate services without a provision for additional fees under any circumstances.

[65] See H. Rept. No. 1709, 88th Cong., 2d sess. 5–6 (1964).

[66] The deletion of the public defender option from the Criminal Justice Act of 1964 would not necessarily preclude a district court from utilizing such services. The selection of a plan whereby representation is furnished through a bar association or a legal aid agency could accomplish the same purpose if the bar association or agency would organize or operate a defender-type program. This procedure is anticipated in the plan adopted by the U.S. District Court for the District of Columbia, which now is served by the Legal Aid Agency for the District of Columbia—a public defender office in all but name—supplemented as the needs require by representation furnished by private attorneys. The main regret regarding the conference action is that what can be done by degree was not able to be done directly.

[67] CONGRESSIONAL RECORD, vol. 110, pt. 14, p. 18558 (remarks of Congressman MOORE) "I am proud that I had a significant hand in guiding this legislation and that it was my bill, H.R. 7457, that the Judiciary Committee reported to the House; that the House subsequently passed; and is contained in its original form in this conference report * * *. I am amazed, then, to read the conference report and discover that primary accentuation was placed upon the Senate bill and the appearance created that the conferees, in essence, were only amending the Senate bill."

that the bill before us provides. I am grateful to those who have labored so long and so well to draft a statute which recognizes the complexities and demands of modern criminal trials. By their devotion to the highest traditions of the law and their determination to relate them to the urgent needs in the administration of criminal justice, the principle of a fair trial, so fundamental to our society, is more nearly secured." [68]

Cleared for the President's signature, the bill was signed by President Johnson on August 20, 1964. By its terms, the Criminal Justice Act of 1964 will become operative 1 year after that date.[69]

IV. PROBLEMS IN IMPLEMENTATION

Senator JAVITS of New York recognized that the burden had now shifted:

"This bill is a beginning. We hope that all the bar associations and legal aid societies who provide these services will measure up to what is expected of them, because what will happen in connection with this law, and how well the law will be administered will in a large measure be up to the organized bar, at whose door it is laid. We hope they will take this mandate from Congress and treat it as a sacred trust and see to it that every dollar that is spent will produce the devotion that is contemplated. Thousands of families will be grateful to them." [70]

Even before the President had affixed his signature to the bill, apprehension was expressed about its administration. An article in the Wall Street Journal described the pitfalls which may lie ahead: "President Johnson soon will sign into law a measure that could someday serve the admirable goal of giving dollarless defendants a better break in Federal court trials. But even its best friends fear this lofty aim may remain unreached while, as one supporter says, 'Federal money goes sailing down a rat hole'." [71] Citing the increased demand for funds attributable to the rising crime rate and expanding federal criminal jurisdiction and pointing to the measure's "generous provisions" for fact-finding services, as well as its "failure to define closely those persons eligible for help" the article predicted the bill will prove costly. The article stated that it was likely qualified lawyers would not be secured: "Officials in the Executive and Judicial branches freely disclose their uneasiness that the plentiful funds will be snapped up by second-rate lawyers tempted by hundreds of dollars per case in fees." [72]

While the impression created by this article might be distorted, the concern was nonetheless valid. It is imperative to those responsible for implementing the Criminal Justice Act of 1964 that it be properly supervised. Its provisions were not loosely or thoughtlessly drafted. The purpose in keeping the provisions flexible and broad was to afford maximum latitude in their operation. This presupposes an involvement by the courts in each aspect of the operation so that necessary control is not lost. The courts, in the first instance, must diligently perform this task. The Congress, briefed on the operation of the act by the annual reports of the Administrative Office of the United States Courts and by the annual requests for appropriations, will necessarily look to the courts for an accounting. Any unanticipated rise in expenditures which can be traced to loose supervision will quickly draw criticism and develop pressures to curb such authority. Apart from this, the courts cannot afford to be drawn into a situation where questions may be raised regarding their capacity and competence to approve claims for payment. Direct and tight control over the operation of the act in its every particular by the courts is the surest method for providing the kind and quality of representation called for by the Criminal Justice Act of 1964.

The courts, therefore, must not only carefully look into each claim for service, but continually look to the lawyers for conduct of a fiduciary character. Public funds are involved. While it is essential for counsel to be encouraged to use the means and facilities provided by the Criminal Justice Act of 1964, this would suggest no license or leeway to spend money because it is available. Indifference, carelessness or any other behavior which does not comport with the highest professional standards must be guarded against by counsel and, if found, must be censored by the court. Only by devoting what time is needed, incurring what expenses are necessary and requesting what services are required will counsel faithfully discharge his duty to his client and the court. By making certain that such standards are observed the courts will discharge their obligation under the act.

The Criminal Justice Act of 1964 recognizes the wide variety of conditions and requirements existing among the Federal district courts. For this reason the act requires that each district court devise a plan for representation incorporating one of the "options" provided in it.[73] Each district court plan is to be designed in accordance with the rules and regulations provided by the Judicial Conference of the United States.[74] The plan implementing the Criminal Justice Act of 1964 in the district had to be submitted to the judicial council of the circuit within six months from the date of enactment.[75] The judicial council was required to review and approve each plan within its circuit, supplement it with a plan for representation of defendants on appeal, and forward the plans to the Administrative Office of the United States Courts within the following three months.[76]

Following the midwinter meeting of the Judicial Conference in March of 1964, the Ad Hoc Committee to Develop Rules, Procedures and Guidelines for an Assigned Counsel System was appointed.[77] Anticipating the passage of the Criminal Justice Act of 1964, the Ad Hoc Committee began collecting data regarding court assignment practices in representative circuits and considered problems that immediately might arise out of the administration of the act. The Ad Hoc Committee's report was submitted to the Judicial Conference the following fall.[78]

In its study, the Ad Hoc Committee found no one system that could serve as a model for all other districts in developing and maintaining a panel of lawyers for appointment, in assuring the availability of counsel, and in coordinating the assignments with state court needs. What concerned the Ad Hoc Committee most—and added a new note of urgency to its work—was the discovery, from the responses received to its inquiries, that many district courts assumed that the requirements of the Criminal Justice Act of 1964 could be satisfied by superimposing its provisions on now existing methods of operation.[79]

Focusing on this attitude, the Ad Hoc Committee report stated:

"In the deliberations of the Committee there were many problems raised which apparently were not fully anticipated or realized at the time the legislation was considered. It is apparent that if the legislation is administered in the manner intended, it will bring about a significant advancement in the administration of Federal criminal justice. It is equally apparent that if the legislation is poorly administered, it could bring adverse criticism upon the courts." [80]

Several recommendations were made by the Ad Hoc Committee for the general administration of the act, including the use of a central disbursement system for funds provided by the Criminal Justice Act of 1964, with the submission of vouchers containing a justification for payment, and the supervision of the act in each circuit through a board of advisors patterned after the board of trustees of the Legal Aid Agency of the District of Columbia. The Ad Hoc Committee also recommended that it be succeeded by a committee which included district judges, and that it carry forward the work of guiding the implementation of the Criminal Justice Act of 1964. [81]

The Judicial Conference of the United States met in the fall of 1964 and approved these recommendations. A new committee was selected. The Committee to Implement the Criminal Justice Act of 1964 held its first meeting on October 17, 1964. The Committee incorporated its ideas in a number of model plans which the district courts could consider in drafting their own plans. The model plans were to take into consideration specific problems discussed by the Committee. Throughout the remainder of the fall the Committee worked on the form of the model plans to prepare them for circulation throughout the court system early in 1965.[82]

The Ad Hoc Committee had recommended that a special meeting of the Judicial Conference of the United States be held early in 1965 to discuss the problems that will occur in the implementation of the Criminal Justice Act of 1964. In its report the Committee took the position that it was neither possible nor desirable to prescribe any specific plan or plans for adoption by a district court.[83] Assuming that the suggested model district court plans would reflect sufficient guidelines, the Committee also proposed that the Judicial Conference not issue any rules and regulations until the need was indicated by the operation of the plans.[84] A number of required provisions for each plan were proposed. Moreover, the committee

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[68] CONGRESSIONAL RECORD, vol. 110, pt. 14, pp. 18521–18522 (remarks of Senator HRUSKA).

[69] Public Law No. 455, 88th Cong., 2d sess., sec. 3 (Aug. 20, 1964).

[70] CONGRESSIONAL RECORD, vol. 110, pt. 14, p. 18522 (1964). See also CONGRESSIONAL RECORD, p. 11899 (May 27, 1965) (insert by Senator METCALF of address by Chief Justice Warren to the American Law Institute, May 18, 1965) "This act poses a real challenge to our profession because we have had no similar experience. It cannot be the problem of the courts alone. The local bar associations must participate both in the making and administration of the plans. The members of those associations must each accept a measure of responsibility, and it should not be delegated to those in our profession who are willing to accept the partial compensation because they find difficulty in making a living otherwise. To permit this would convert the objective of affording legal assistance to indigents to that of affording assistance to indigent lawyers."

[71] The Wall Street Journal, Aug. 18, 1964, p. 10, col. 4–5.

[72] Ibid.

[73] 18 U.S.C.A. sec. 3006A(a) (Supp. 1964).

[74] Public Law No. 455, 88th Cong., 2d sess. sec. 3 (Aug. 20, 1964).

[75] Ibid.

[76] Ibid.

[77] See Judicial Conference Report 89.

[78] Id. at 87.

[79] Id. at 90.

[80] Ibid.

[81] Id. at 96.

[82] See minutes of the meeting of Oct. 17, 1964. Id. at 79–85.

[83] Id. at 5.

[84] Id. at 6–9. Six model district court plans were attached to the report (pp. 31–74) as well as vouchers and other forms required to be used in each plan devised by the courts (pp. 12–30).

recommended the adoption of uniform standards and procedures to determine financial inability and assure continuity of representation. The board of advisors program for each circuit was endorsed. No plan for representation on appeal was proposed at that time. It was also recommended that proposals for administrative organization be deferred until the district plans were placed in operation and the requirements arose.

The Judicial Conference of the United States adopted the report and directed that the actions be followed.[85] With these reports, recommendations and model plans before them, district courts were prepared to devise a plan that would be consistent with the expressed policy of the Judicial Conference and appropriate to their particular needs. The Eighth Circuit was in a particularly advantageous position to respond. The Chief Judge, Harvey M. Johnsen, had been intensely active in each phase of the post-passage study of the Criminal Justice Act of 1964.[86] Promptly acting upon the recommendation of the Ad Hoc Committee that the Chief Judge of each circuit call a meeting "as soon as practical of the chief judges of the district court in his circuit to consider the implementation of the Criminal Justice Act," [87] Judge Johnsen held a meeting in Kansas City Missouri, on October 23, 1964, to discuss "the problems of administration under the act, the urgency of developing practical and acceptable plans in each district, ways and means stimulating the interest and securing the support and cooperation of the bar in every district in the implementation of the act, and to make plans for the appointment from the bar of an appropriate board of advisors to the judicial council." [88]

Early in November, Chief Judge Richard E. Robinson of the United States District Court for the District of Nebraska requested the President of the Nebraska State Bar Association to appoint an ad hoc committee to draft a plan implementing the Criminal Justice Act of 1964 in this district. A committee of nine lawyers was selected.[89] Following a preliminary meeting to outline the requirements for a Nebraska plan, drafts were prepared and circulated among the members for study during the months of January and February. A plan was submitted in February which was formally adopted by the federal district court on February 19, 1965. It was approved by the judicial council of the Eighth Circuit on May 8, 1965. The plan will take effect on August 20, 1965, the effective date of the Criminal Justice Act of 1964.

V. PROVISIONS OF THE PLAN

The format of Nebraska's plan is similar to several model plans to the extent that it has incorporated many of the provisions contained in them. Yet the plan is individualistic and is patterned after the needs of the district. As the plan is designed to be a guide for lawyers given court appointments under the Criminal Justice Act of 1964, it would be well to discuss the provisions of the plan against the background of some of the problems with which they will be concerned.[90] In this way the potential, as well as the purpose, of the plan may become apparent.

The plan ought to be viewed from the broad and necessarily general declarations of the Criminal Justice Act of 1964. If no specific standard is suggested for deciding whether its provisions can be utilized—or how far they can be applied—the answer must turn, in the last analysis, on whether an adequate defense would be furnished an accused.[91] If this test allows considerable latitude and provides a stimulus which otherwise would be lacking, it is intended to. The time has passed when the poor are deprived of their rights in a criminal proceeding because they cannot afford protection. The help which is provided to overcome this handicap is not a matter of generosity to be offered or denied by the government as it sees fit. As the Allen Committee Report states, what we are concerned with now is "a broad commitment by government to rid its processes of all influences that tend to defeat the ends a system of justice is intended to serve." Only in this way will the ideal of equal justice convey any meaning in the courtroom. What is now considered as effective assistance of counsel bears little resemblance to the practice of the past.[92] The days of the "enthusiasm-experience dilemma" [93] have departed. With the passage of the Criminal Justice Act of 1964, more must be expected from counsel in assuming the defense of the poor, just as more can be expected by him in the preparation and presentation of the case.

(1) Coverage.—The plan [94] covers "defendants charged with felonies or misdemeanors, other than petty offenses as defined in 18 U.S.C. 1, who are financially unable to obtain an adequate defense." This does not mean that defendants charged with petty offenses are not entitled to representation. However, the nature of such offenses would not require the facilities of the Criminal Justice Act of 1964 to afford adequate protection. By definition, collateral proceedings civil in character are not covered by the plan. Attorneys appointed to furnish representation in those cases must rely on their own resources as they do now.[95] The court took pains to express in the plan that the public service aspects of representation still exist. The plan states that the lawyer's participation in the plan, which provides compensation, in no way diminishes that responsibility. Despite the effort to distribute part of the burden which it is proper to share with the public, the necessity on the part of the lawyers to accept these appointments and to perform in the best tradition of the bar is not changed by the passage of the Criminal Justice Act of 1964.

The district court chose to adopt the most flexible system for appointment of counsel provided by the act. The practice now followed is to assign lawyers in the general practice on an individual case basis. This procedure for securing counsel will continue for some time. However, the court recognized there are two legal aid agencies in Nebraska which potentially could be called upon to furnish representation.[96] In anticipation of the time when either agency is equipped to render this service, the court designated a plan containing a combination of the two systems.

(2) Qualifications for service.—The sine qua non of the Criminal Justice Act of 1964 is participation by competent counsel. If the plan is properly administered, this should not be a problem in Nebraska. The criminal docket in this district is not heavy.[97] On the other hand, a problem of securing counsel may arise in the future by reason of the greater number of appointments anticipated in Federal court, the greater requirements associated with representation, and the expanding needs of the state courts.[98] However, a system for a fair allocation of appointments among qualified members of the bar

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[85] Id. at 2.

[86] Id. at 2, 11, 79, 97.

[87] Id. at 87.

[88] Id. at 3.

[89] The members were Robert H. Berkshire, George B. Boland, and Warren S. Zweibach (of Omaha); John C. Jourley and C. M. Pierson (of Lincoln); Donald W. Pederson (of North Platte); Gerald E. Matzke (of Sidney); Francis L. Winner (of Scottsbluff), and the author.

[90] See Timbers, "Representation of Indigent Defendants in Federal Criminal Cases," 38 Conn. B.J. 395 (1964) for a detailed discussion of the procedural steps (and checklist) counsel should follow in handling a court assignment. The article was prepared prior to the implementation of the Criminal Justice Act of 1964 in the district of Connecticut.

[91] The author had the opportunity to read Professor Lake's article in galley and is prompted to make one specific comment with regard to the question posed by him in his text accompanying footnote 42: To what extent is the Criminal Justice Act of 1964 applicable to the Supreme Court? Certainly it would seem incongruous if the court which rendered *Giedon* would not extend the same right of representation to its litigants as that ruling requires of nearly every other court in the land. It is obvious, however, that the framework of the act reflects a design for the district courts and the courts of appeal. No specific reference is made to the Supreme Court or to review by certiorari. Yet the purpose of the act is to provide representation "in the courts of the United States"; provision is made for representation "at every stage of the proceedings from [the defendant's] initial appearance before the U.S. commissioner or court through appeal"; the plans lay emphasis on a continuity of representation until or unless the lawyers are relieved by the next higher level of the judiciary; and with regard to claims for compensation specific reference is made "to each appellate court before which the attorney represented the defendant". Beyond this, the Allen Committee Report refers to representation in "any appellate proceedings"; several witnesses in the Senate hearings spoke about assuring legal counsel "in all federal courts"; the Senate report specifies that adequate representation will be furnished "until the termination of appellate review"; the Senate manager of the bill likewise stated at the time of passage that the legislation would apply "until the termination of appellate review"; the House report also states that the purpose is to provide legal assistance "in the courts of the United States"; the House debate refers to representation "all the way to the Supreme Court" and "through final appeal"; and, finally, the Conference report uses the phrase "in each appellate court" and "at any stage of the proceedings, i.e., before the commissioner, the district court, the court of appeals, or the Supreme Court." Considering the foregoing it is reasonable to say that, although the act is not altogether explicit on the issue, the legislative intent was not to stop short of the Supreme Court insofar as Federal criminal cases are concerned. By all logic, moreover, if the act does apply to the Supreme Court, it should make no difference at this point whether the case is federal or state in character. The methods for providing such representation, however, must remain for the Court to work out. One circuit has already ruled that it is not a denial of due process for a state court to refuse to appoint counsel for a defendant who seeks an appeal of his conviction from a state supreme court to the U.S. Supreme Court *Peters* v. *Cox*, 341 F.2d 575 (10th Cir. 1965).

[92] See Note, "The Effective Assistance of Counsel," 8 Harv. L. Res. 1434 (1965).

[93] See Note, "The Representation of Indigent Criminal Defendants in the Federal District Courts," 76 Harv. L. Rev. 579, 596–600 (1963).

[94] See text of plan attached as an appendix to this article.

[95] This is probably the next development of the act and should receive thorough consideration by the Congress as experience is gained with the present provisions.

[96] The Legal Aid Society of Omaha, Nebraska, and the Lincoln Legal Aid Bureau.

[97] See note 12, *supra*.

[98] See L.B. 839, 75th Neb. leg. sess. (May 3, 1965) (providing for the appointment of counsel in the Nebraska State courts).

should result from the program set up by this plan.

The practice of selecting a lawyer known or recommended to the judge whose only indicia of competence is admission to the bar is foreclosed. Counsel appointed under the plan must be selected from a panel of attorneys designated by the district court.[99] To develop a panel, local bar associations and other sources were contacted by the district court and invited to submit lists of lawyers who, in their opinion, had demonstrated ability and interest and were deemed qualified to furnish adequate representation. Members of the bar are always invited to present names. Undoubtedly the standard formulated is as broad as it is long. It was intended to mean more than a submission of a list of every practicing lawyer in the state, but how much more? While this question is not settled, the court decided that the leaders of the bar and the local trial judges would be in the best position to propose the initial lists of names for consideration. To avoid causing anyone to certify the competency of the lawyers recommended, the actual selection for the panel will be made by the court.

What constitutes "competence" in a particular case must be applied with reason. A lawyer who may have "demonstrated ability and interest" to handle a Dyer Act violation, for example, may not possess the skills and experience required to handle a narcotics offense. Necessarily, the panel needs a range of talents. The essential virtue of the panel, however, is that every member should possess a sufficiently recognized degree of competence to cope adequately with the case to which he might be assigned. This presupposes the exercise of sound judgment at the time of the designation to the panel and a careful exercise of judgment in making an appointment in a particular case.

If at any time it becomes apparent the appointment was ill-advised, the error should not be perpetuated at the defendant's expense. A substitute appointment can and should be made. In the interest of justice, which accords the broadest discretion, the judge may appoint as counsel any attorney admitted to the bar who is not on the panel, whose name then automatically is included. The panel will be supplemented and revised from time to time. The plan specifies that the selection of counsel from the panel is the responsibility of the judge or the Commissioner.

(3) Duration of service.—Once a lawyer is appointed to represent an accused, he will normally continue to serve throughout the remainder of the proceedings. In fact, the plan provides that counsel will continue to represent the defendant at each succeeding stage until further order of the court. If counsel is appointed by the Commissioner, the judge may reappoint him when the matter reaches the court level or he may substitute counsel, but in the meantime there is an obligation to continue to provide representation unless relieved by the court. The same procedure is followed on appeal. Counsel appointed by the judge must advise the defendant of his right to counsel on appeal and continue to represent him unless he is relieved by the Court of Appeals. In those cases where the defendant does not wish to appeal, the plan provides that a statement to that effect must be filed. A suggested form is provided. Should the defendant refuse to acknowledge his decision not to appeal in writing, counsel must certify that the advice was given. Of course, if it is convenient to do so, a record can be made in open court.

The geographical distances between the location of the Commissioners and the places where court is held in Nebraska are, in some instances, substantial. This factor is to be taken into consideration in determining whether counsel appointed by the Commissioner should continue to serve in subsequent stages. The greatest degree of flexibility is contemplated by the plan for determining the duration of service or the advisability of substituting counsel. Counsel must be provided as required, but the arrangements for representation need not be continued when found to be inappropriate. The court may, and when the facts are called to its attention will, reexamine the need for counsel at any time. If the defendant is financially able to obtain counsel, or to make partial payment for his representation, the judge may terminate the appointment or direct that payment be made. If the judge finds that a defendant who has initially retained counsel cannot pay for his services, he may appoint the same counsel or substitute other counsel for his defense.

(4) Need for services.—The Criminal Justice Act of 1964 and the district court plan systematically avoid the use of the word "indigency." It is not an adequate standard. The test employed in the act and the plan is "financial inability to obtain counsel." In other words, a defendant need not be destitute to apply for assistance under this plan.[100] Rather, the criterion is "a lack of financial resources adequate to permit the accused to hire his own lawyer."[1] As the Allen Committee Report states, this is a "relative concept with the consequence that the poverty of [the] accused must be measured in each case by reference to the particular need or service under consideration."[2] Clearly the intention of the Criminal Justice Act of 1964 is that the concept should have a liberal interpretation.

(5) Time for appointment.—Each defendant charged with a felony or a misdemeanor who appears without counsel must be advised at his initial appearance before the judge or the Commissioner, or at such time as he first appears without counsel, of his right to counsel.[3] The Allen Committee Report points out the purpose of this provision: "It is clear that a system for adequate representation requires more than an appointment of counsel. One of the essentials of such a system is that counsel be appointed early enough in the criminal proceedings to insure protection of the defendant's legitimate interests."[4] This provision will have a substantial impact on the character of the proceedings before the Commissioner and will certainly make the preliminary hearing more meaningful to the accused. It also imposes a greater duty upon the Commissioner which, although it could be anticipated by the proposed revision of the Rules of Criminal Procedure, is not now performed.[5] The selection of the lawyer by the Commissioner must be from the panel designated by the court. Although the court will still retain control through the designation of the panel and by review of appointments as they reach the trial stage, nonetheless it can be expected that the Commissioner's influence upon the entire proceedings through his initial selection of counsel will substantially increase under the plan, causing his role and responsibility to assume new importance. The language of the plan makes it plain that if the accused is first brought before the judge, rather than the Commissioner, the judge should promptly appoint counsel.

(6) Procedure for appointment.—When the defendant appears without counsel, the plan specifices that the defendant shall be asked whether he desires counsel and whether he is financially able to obtain counsel for himself. Upon the indication that he wishes to have counsel, he is unable to obtain a lawyer, and he wants to apply for one, it is then incumbent upon the judge or the Commissioner to make appropriate inquiry. However, it does require that whatever statements are made by the defendant in support of his application will be under oath in open court or by affidavit. The extent of the inquiry would vary in each case, and what might warrant extensive investigation in one instance may not be required in another. The practice should follow the same lines now employed in court. The purpose of the inquiry is not to discourage the appointment of counsel, but only its abuse. While there will be greater demands for counsel, current experience indicates that few, if any, defendants are now refused counsel when requested. Liberality in granting such requests is indicated by the provision allowing the defendant to make partial payment for representation. Forms are included in the plan for making the affidavit and inquiry. The nature of the inquiry at the Commissioner level would be less extensive than at the court level.

While the plan is drafted in terms of the accused making application for the appointment of counsel, the purpose of the act is to discourage waiver of counsel. The formalities regarding an application for counsel should be minimized. Short of foisting counsel on the accused, the policy is to have counsel present.[6] The act provides that if a defendant appears without counsel, one will be appointed unless the right is waived.[7] It may be desirable to appoint counsel, where a waiver is indicated, to advise the defendant as to the value of such services as the time of plea and sentence apart from informing him about the consequences and risks of waiver. To discourage the practice of waiver, the plan requires that the waiver be formally executed so that the defendant's "eyes will be open." A suggested form is provided. The plan also permits his revoking the waiver and applying for an appointment of counsel at any stage of the proceedings.

The plan makes provision for the appointment of more than one attorney in the case when the requirements of an adequate defense so indicate. Care must be exercised to avoid abuse. The provision does not contemplate multiple appointments merely to circumvent the dollar limitation on fees or to serve the convenience of counsel previously appointed. Separate counsel are also to be appointed in those cases where the defendants have such conflicting interests that they cannot be

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[99] 18 U.S.C.A. sec. 3006A(b) (Supp. 1964).

[100] See Carter & Hansen, "The Criminal Justice Act of 1964," 36 F.R.D. 67 (1964). See also Judicial Conference Report 6.

[1] Allen Committee Report 7.

[2] Ibid.

[3] 18 U.S.C.A. sec. 3006A(c) (supp. 1964). See also Judicial Conference Report 84, for discussion of phrase "from his initial appearance"—interpreted as meaning "at his initial appearance."

[4] Allen Committee Report 37.

[5] See note 7 supra. See also CONGRESSIONAL RECORD, p. 11899 (May 27, 1965) (insert by Senator METCALF of address by Chief Justice Warren to the American Law Institute, May 18, 1965) "Undoubtedly, the passage of the Criminal Justice Act will bring to light many inadequacies in our commissioner system. I believe our experience may well demonstrate the need for a thoroughgoing study of the system not only to assure the effective administration of the act at the commissioner level but also to assure that the position of the U.S. Commissioner is a meaningful one viewed in the light of current needs."

[6] See *Adams* v. *United States* ex rel. McCann, 317 U.S. 269, 279 (1942). For the danger of insisting on counsel appointment see Time, March 19, 1965, p. 57, for discussion of ruling by federal district court granting a writ of habeas corpus in case where counsel was not desired, but appointed in a state trial.

[7] 18 U.S.C.A. sec. 3006A(b) (Supp. 1964).

properly represented by the same attorney. This, too, is not a matter of lessening the burden or following the preference of counsel.

(7) Services other than counsel.—The Allen Committee Report states that the absence of a provision for defense services is "a fundamental deficiency of the present system," which reaches "serious proportions." [8] The plan provides that counsel, whether appointed for or retained by a defandant who is financially unable to obtain the services other than counsel necessary to an adequate defense, may request them in an ex parte application to the court. The ex parte nature of the application will insure that the defendant will not have to disclose his defense prematurely. Although the legislative history is replete with references to these services, no exhaustive description of them has been found. The Allen Committee Report refers to counsel having at his disposal the "tools essential to conduct a proper defense," [9] and later specifically mentions "investigatory services, the assistance of experts, transcripts of proceedings and the like." [10] Sound judgment in the matter is required, although on a showing of reasonable need, a court should not hesitate to afford counsel the fullest opportunity to prepare his case. To indicate the liberality of the rule, as well as provide guidance to counsel in utilizing the provision, the plan gives this interpretation:

"The fact finding services contemplated by the plan are similar to, but are not necessarily the same as, the services utilized in careful police work or required by a diligent United States Attorney. In passing on an application for such fact finding services, the Judge need only be satisfied that they reasonably appear to be necessary to assist counsel in his preparation and trial of his case and that the defendant is unable to pay for them." [11]

On granting the application, the judge can establish a limit as to the amount which will be approved for such service but, in any event, cannot authorize payment or award compensation to any one person for the service, or to any organization for such service rendered by an employee, in excess of 300 dollars, exclusive of expenses. When it is appropriate and not prejudicial to the defendant's case, the court may determine whether stipulations can be entered into to avoid the expense. The plan contains a provision for the court to ratify the employment of such services after they have been obtained when counsel shows that timely procurement of the services could not await prior authorization. This authorization should be used sparingly. It is not intended to rescue a negligent lawyer. Some plans include a caveat that "ratification is not looked upon with favor." Nebraska's plan indicates that the services contemplated as being needed immediately would be those services necessary to preserve evidence which may be lost by delay. Other appropriate criteria will develop with experience. Statements supporting the request for these services, unless made by the defendant's attorney, are required to be in the form of affidavits or under oath in open court and to be endorsed by counsel. Forms are included in the plan. The plan specifies that the Commissioner cannot authorize these defense services.

(8) Payment.—Attorneys appointed under the plan will submit a claim at the conclusion of their services, or any segment as deemed appropriate, which is supported by a written statement specifying the time expended, services rendered and the expenses incurred while the case was handled. Any compensation or reimbursement received in the case must also be indicated. The procedure for presenting these claims would be similar to the showing made for other court disbursement of funds. A strict accounting is expected. The modest limitations for hourly reimbursement do not justify excessive charges for time. Expenses are limited to out-of-pocket expenses actually incurred in defense work, and would not include either unreasonable personal living expenses or nonallocable office posts. A form specified in the plan is to be used.

The court is authorized to set the compensation to be paid an attorney at the rate not to exceed fifteen dollars an hour for court time and ten dollars an hour for office time, exclusive of expenses. However, an overall limitation is specified for each attorney appointed of 500 dollars for a case involving a felony and 300 dollars for a case involving only a misdemeanor. In extraordinary circumstances—and the term implies nothing less—payments in excess of these limits are authorized if the district court certifies that the payment is necessary to provide fair compensation for protracted representation and the sum is approved by the Chief Judge of the circuit. For representation on appeal, the compensation for each attorney appointed is limited to 500 dollars for a felony case and 300 dollars for a misdemeanor case. The plan requires the claims to be submitted within forty-five days after the service is rendered unless reason for delay is given.

The court will also determine the compensation for service other than counsel and direct payment to the person or organization which rendered it. Such claims must be supported by an affidavit specifying the time expended, the service rendered, and expenses incurred on behalf of the defendant, as well as the compensation received in the case or for the same service from any other source. The standard of strict accounting equally applies to these claims. The compensation can not be in excess of the amount authorized, which in no event would exceed the sum of 300 dollars for each person rendering such service, exclusive of expenses. Forms are provided in the plan for making application.

To emphasize the tight control the courts will exercise over the payment of fees and expenses, notification of all appointments and authorizations are to be given the Administrative Office of the United States Courts as they are made. The director of the Administrative Office will disburse the funds through a central accounting system. He is also authorized to secure reports from the courts and judicial councils on the operation of the plans, as needed, and will prepare standard forms for appointments and submission of claims.

The plan prohibits any attorney or person rendering a defense service from requesting or accepting payment from any other source without court approval. Information coming to the attention of counsel that the defendant is in a position to make payment in whole or in part is to be reported to the court.

VI. CONCLUSION

The members of the Nebraska Bar will have further guidance in working with the plan. Patterned after the Board of Trustees of the District of Columbia Legal Aid Agency, an advisory committee composed initially of the lawyers who drafted the plan has been designated to serve as an intermediary between the bar and the court to resolve any questions that might arise in the day-by-day operation of the plan.[12] The assignment should prove to be one of the most challenging undertaken by the bar. Hard problems lie ahead. It is relatively simple to state that effective assistance of counsel is required in all cases. It is something else again to provide it. It is rather popular to talk about equal justice for the accused, but to see that it is done involves a great deal more. However, a growing awareness of the vast disparities and inequities in the criminal law practice is producing new attitudes and prompting more effective action. Lawyers are thinking about the constitutional aspects of their case. Not long ago to raise a constitutional objection would practically imply that there was no substance to the defense. Today police practices and prosecutors' proof are scrutinized immediately in the light of constitutional requirements. And new precedent to this end is rapidly developing.

This new direction in the law quite naturally has aroused anxieties in the public mind. The crime rate increases—even faster than our population growth. Cities fall prey to gangs that roam its streets at will. Citizens are terrorized by hoodlums who do not hesitate to strike in broad daylight. The police everywhere confess to a general breakdown of law and order. Little wonder that news of an appellate court reversal of a conviction is greeted with public dismay.[13] As the front pages of newspapers had once carried the details of the crime, now the editorial columns decry apparent judicial indifference as to the consequences of these decisions. Even in the comic strips—seemingly our last escape from the problems of the world—criminals suffering swift and sure justice are heard to mumble that "someone is violating their constitutional rights."

To be sure, there is also a lively and articulate press which regularly rakes judges over the civil libertarian coals for allowing a policeman's testimony to be admitted in a court of law or for sending a defendant to prison who has led such an exemplary life while out on bail. The need for understanding of our task was clearly stated by Professor Vorenberg in a recent address:

"[M]any parts of today's dialog are not merely uncreative, they are destructive. 'Hanging judge', 'soft-headed court', 'police brutality', and 'hard-nosed reactionary' are phrases which have become part of the jargon in this field. We read there epithets in our newspapers every day, and all too many people accept them as accurate reflections of the questions posed by the criminal process. Distinctions are drawn which suggests that one must make a simple, all-purpose choice between protecting the individual and protecting society; between coddling the criminal and promoting effective law enforcement; between the rights of the accused and the rights of the public. In my view, these are false conflicts which obscure and obstruct rather than aid analysis of the issues in this field. This 'which side are you on' approach not only impedes communication among those who are working in the criminal field; far worse, it so distorts the public's understanding of how hard and important are our tasks that it seriously impairs our ability to enlist needed support for work [on the right to counsel]." [14]

To the extent that it has clarified our national policy and purpose on the question of the right to counsel, the passage of the Criminal Justice Act of 1964 is profoundly important. To the degree that it will be utilized by lawyers to overcome, in the defense of the

[8] Allen Committee Report 26.
[9] Id. at 39.
[10] Ibid.
[11] See Appendix, infra.

[12] Special Committee on the Federal Criminal Justice Act, created June 18, 1965. For membership see note 89, supra. An illustration of the kind of problem the Committee might face is found in Professor Lake's article in the text accompanying footnote 56.

[13] See Time, Apr. 23, 1965, p. 46, for contrasting report, "Winner Take Nothing."

[14] See Address by James Vorenberg, Director, Office of Criminal Justice, the Office of Criminal Justice—Its Role and Relationship to State and Federal Reform, Governor's Conference on Bail and the Right to Counsel, Louisville, Ky., Jan. 23, 1965.

poor, the disadvantages traced to poverty, it will be a success. This nation is committed to the eradication of poverty in its midst. It is appropriate that one of the earliest pieces of legislation should consider the impact of poverty on the administration of criminal justice. There is, perhaps, no greater test of our commitment than by adequately providing for the defense of the poor who are accused of crime. The bar has an opportunity to demonstrate that the rights of every member of our society, regardless of his circumstances, shall be decently respected. It has, just as well, the responsibility to see that they are fully protected. In faithfully pursuing the declared purposes of the Criminal Justice Act of 1964, the bar will perform its truest function and preserve its greatest tradition. While, therefore, this legislation is just a beginning of a better pursuit of social justice, it is an auspicious start.

SALE OF UNIFORM CLOTHING TO NAVAL SEA CADET CORPS

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 1856) to authorize the Secretary of the Navy to sell uniform clothing to the Naval Sea Cadet Corps, which were, on page 2, line 1, after "cadets" insert "and to any Federal or State maritime academy having a department of naval science for the maritime cadets and midshipmen", and on page 2, line 3, after "Corps" insert "and to such Federal and State maritime academies".

Mrs. SMITH. Mr. President, I move that the Senate concur in the amendments of the House of Representatives to Senate bill 1856.

The bill in the form it was passed by the Senate would authorize the Navy to sell items of enlisted clothing to members of the Naval Sea Cadet Corps at no expense to the Government.

The House amended the bill by providing that the Navy might also sell items of enlisted clothing at no expense to the Government to Federal and State maritime academies having a department of naval science for maritime cadets and midshipmen.

Mr. President, I urge the concurrence of the Senate in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine to concur in the amendments of the House of Representatives.

The motion was agreed to.

THE QUALITY WATER ACT

Mrs. SMITH. Mr. President, it was my privilege to attend the signing ceremony at the White House this past Saturday morning, October 2, 1965, of the Quality Water Act. This is truly a great legislative achievement and a great gain for the people of the United States on the goal of protecting our water supply through the elimination of water pollution or, at least, keeping water pollution down to the greatest possible minimum.

I want to pay tribute to my colleague, the junior Senator from Maine, EDMUND S. MUSKIE, for the very fine leadership that he gave in steering this legislation through Congress and for his dedicated efforts on this very important matter. He deserves the greatest praise. And I am sure that he would be the first to say that Representative JOHN A. BLATNIK merits highest commendation for his leadership in the House on this legislation. I know from the personal experience that I had while a Member of the House of what a dedicated public servant JOHN BLATNIK is.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

EXECUTIVE SESSION

Mr. LONG of Louisiana. Mr. President, I move that the Senate proceed to consider executive business.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to, and the Senate proceeded to the consideration of executive business.

EXECUTIVE REPORTS OF A COMMITTEE

The following favorable reports of nominations were submitted:

By Mr. HRUSKA, from the Committee on the Judiciary:

Theodore L. Richling, of Nebraska, to be U.S. attorney for the district of Nebraska.

By Mr. DIRKSEN (for Mr. EASTLAND), from the Committee on the Judiciary:

B. Andrew Potter, of Oklahoma, to be U.S. attorney for the western district of Oklahoma;

David G. Bress, of the District of Columbia, to be U.S. attorney for the District of Columbia;

Bernard J. Brown, of Pennsylvania, to be U.S. attorney for the middle district of Pennsylvania;

Rex B. Hawks, of Oklahoma, to be U.S. marshal for the western district of Oklahoma; and

Dale C. Stone, of Indiana, to be U.S. marshal for the southern district of Indiana.

The PRESIDING OFFICER. If there be no further reports of committees, the clerk will state the nominations on the Executive Calendar.

DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY

The Chief Clerk read the nomination of John W. Hechinger, of the District of Columbia, to be a member of the District of Columbia Redevelopment Land Agency for the term expiring March 3, 1970.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—AIR FORCE

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of nominations in the Air Force.

The PRESIDING OFFICER. The nominations will be stated.

The Chief Clerk proceeded to state sundry nominations in the Air Force.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—ARMY

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of nominations in the Army.

The PRESIDING OFFICER. The nominations will be stated.

The Chief Clerk proceeded to state sundry nominations in the Army.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, the President will be notified forthwith.

LEGISLATIVE SESSION

On request of Mr. LONG of Louisiana, and by unanimous consent, the Senate resumed the consideration of legislative business.

Mr. LONG of Louisiana. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOME RULE FOR THE DISTRICT OF COLUMBIA

Mr. HOLLAND. Mr. President, I am thoroughly in accord with the editorial which appeared in the Tampa Tribune of Friday, October 1, 1965, entitled "Washington's Needs."

I supported home rule for the District of Columbia for several years after I came to the Senate. In general, I have supported the principle of general participation of citizens in any area of America in decisions affecting their important governmental problems. I supported that principle in my own State of Florida, in eliminating the poll tax requirement and was the author of the 24th amendment eliminating poll tax in Federal elections. I supported that principle as a sponsor of statehood bills for Alaska and Hawaii and I supported and voted for the 23d amendment giving the District of Columbia the right to participate in presidential elections.

But, Mr. President, I did not support the bill (S. 1118) when it was considered by the Senate to provide an elected Mayor, City Council, and nonvoting Delegate to the House of Representatives for the District of Columbia.

As I stated on the floor of the Senate during the course of the debate on S. 1118:

I would be ready now to give to the citizens of the District of Columbia many of the powers of decision affecting their local problems, because I believe that not only would they be better qualified to discharge them, but also it would relieve Congress of the heavy burdens which, too often, it does not well perform.

But, Mr. President, in view of the bad crime record now existing in the District of Columbia, and the various questions connected therewith, I could not be a party to surrendering the responsibility of Congress to deal with that problem, or the responsibility of the Federal Government to have something directly to do with the solution of that problem.

Mr. President, the bill, S. 1118, which the Senate passed and the later action the House of Representatives took by passing an entirely different measure, indicates the widely divergent views of Congress on this subject. Therefore, I agree wholeheartedly with the views expressed in the editorial to which I previously referred, and which I ask unanimous consent to have printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WASHINGTON'S NEEDS

In a rare rebellion against President Johnson, the House of Representatives has refused to accept his home rule plan for the District of Columbia.

The Senate adopted it in July. But the House passed a sharply different version, which would require, first, a referendum on the question by District voters, then the drafting of a plan by a charter commission, the approval of this plan in a second referendum and, finally, its acceptance by both Houses of Congress.

Disappointed supporters of the administration plan for instant home rule say the House action kills any chance of legislation at this session.

Perhaps. If so, the gain exceeds the loss.

Self-government for the District of Columbia is not a matter to be decided in the rush of an expiring congressional session, under pressure from an administration which may be more concerned with pleasing Negro voters than achieving better local government.

In principle, we think, the national capital ought to be under Federal control. The most persuasive argument for giving Washington residents the right to elect a mayor and council, to replace the Presidentially appointed District Commissioners, is the wretched government produced by the present system.

Some change is imperative. But it ought to be made deliberately, with the utmost care, and under conditions which will preserve either a Federal partnership or a Federal veto.

The House bill takes this approach.

If the Senate accepts this plan, a constructive start will be made toward reforming the District government. But if Senators insist on the administration proposal to turn over Washington's government to locally elected bodies without further ado, then better that no legislation pass at this session.

The precise form of the District government is less important than its effectiveness. Both Congress and the President have permitted the present government to fail shamefully in the responsibility to maintain a Capital City of which the Nation can be proud.

Washington has three pressing needs:

More money from the Federal treasury for local administration. The Federal Government now supplies only 13 percent of the District budget.

Better law enforcement to reduce the disgracefully high crime rate.

A program to bring more white residents into the District, so that the National Capital will not be dominated, as now, by a minority group. (Negroes comprise nearly 60 percent of the population.)

If President Johnson will use his influence to help work out a practical reform to meet these needs, rather than demanding loyalty to a political theory, he will benefit both Capital and Nation.

Mr. ERVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WHY FIDDLE WHILE ROME BURNS?

Mr. YARBOROUGH. Mr. President, the Administrator of Veterans' Affairs was quoted in the October 3 Washington Sunday Star as saying that the Veterans' Administration will probably recommend to the next session of Congress "that cold war veterans be given benefits comparable to World War II and Korean veterans." This reappraisal by the VA represents the most progressive stride taken by that agency since the end of the Korean conflict.

Yet it is only half a step. This issue has been before the American public for 7 long years. The U.S. Senate has been way out in front all the way, having passed the cold war GI bill in 1959, and again in this session of the 89th Congress by an overwhelming vote of over 4 to 1, and over VA opposition all the way. I welcome the VA to the ranks of those of us who have worked for this legislation over the years. But why fiddle while Rome burns? Let us put the cold war GI bill on the statute books without further delay.

The bill is pending in the House and it is pending in the House committee. A little push from the Veterans' Administration now would be worth a ton of pressure at some probably recommended date. I urge the administration to consider what is pending in the House committee now. There is time left in this session of Congress to do something to help the most mistreated veterans in this Nation.

I ask unanimous consent that an article from the Washington, D.C., Sunday Star of October 3, 1965, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DRIVER TALKS OF BENEFITS FOR COLD WAR VETERANS

(By Alvin P. Sanoff)

The Administrator of Veterans' Affairs said last night that the Veterans' Administration will probably recommend to the next session of Congress "that cold war veterans be given benefits comparable to World War II and Korean veterans."

William J. Driver, speaking at the bill of rights awards dinner of the American Veterans Committee at the Mayflower Hotel, said that a reexamination of the present benefits program is now going on.

Whether "we will decide to give cold war veterans the same benefits as those enjoyed by World War II and Korean veterans we have not really concluded yet," Driver said.

However, "we are reexamining the situation," he added, "and will take action after the first of the year."

Driver also said that many social welfare programs recently passed into law, such as medicare, had their beginnings in veterans' programs. "Veterans' programs have blazed new trails," he said.

Driver said that he hoped that the medicare program could eventually be expanded so that it was comparable to the medical program enjoyed by veterans.

The Administrator accepted the AVC bill of rights award on behalf of President Johnson.

Also honored at the dinner were Adam Yarmolinsky, assistant to the Secretary of Defense, and Judge Hubert L. Will, judge of the U.S. District Court for Northern Illinois and chairman of the U.S. Council of the World Veterans' Federation.

WHAT OF THE VICTIMS?

Mr. YARBOROUGH. Mr. President, it is always a pleasant surprise to come across an unexpected bit of treasure. Readers of the September 26 Boston Sunday Herald were treated to this experience in the form of one of the most carefully researched, most thoughtful, and best balanced editorials I have ever seen in a daily newspaper.

The editorial, entitled "What of the Victims?" explores the history, rationale, and current policy discussions of compensation to innocent victims of crimes for the losses they suffer as a result of the crime.

Several months ago I introduced a bill, the first bill introduced in the Congress of the United States at any time, for the provision of compensation to innocent victims of crimes who receive bodily injury when those crimes have been committed within Federal jurisdictions.

I ask unanimous consent that the editorial from the Boston Sunday Herald be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WHAT OF THE VICTIMS?

Over and over the courts, especially the U.S. Supreme Court are being criticized these days for decisions which protect the rights of defendants in criminal cases. The courts have become soft on crooks, it is said. Justice has forgotten the victims.

Some of these critics forget that, in American courts, all men are considered innocent until proven guilty and that many defendants actually are innocent. They overlook the fact that, because of faulty identification, for instance, or a neighbor who bears a grudge or any of a multitude of reasons, they, too, could be defendants in court some day.

But there is something to say for the idea that justice has overlooked the victims of crime while it has been concerning itself

with the rights of the accused. It is all very well to give a man who is accused of, say, assault with a dangerous weapon, a fair trial and either send him to jail or find him innocent. But, either way, the victim is no better off. He may have the satisfaction of revenge if his assailant is sent to jail, but revenge doesn't heal wounds or pay expensive medical bills or help his family in their distress.

The problem of how to help the victim is an old one, and, in fact, the ancient penal codes of Babylon, Israel, Greece, Rome, and Anglo-Saxon England required the criminal to reimburse the victim with money or property. The same principle was followed in cases of theft in Connecticut and Massachusetts in the 17th century.

During the late 19th century compensation of crime victims was discussed at no less than five consecutive international prison conferences. Resolutions were adopted in favor of the principle but nothing much came of it.

Recently the principle has been revived, however in different form. Instead of requiring the criminal to compensate the victim, an impractical requirement in most cases because the criminal usually lacks the necessary resources, the government does the job. The practice was adopted in 1964 in Great Britain and New Zealand, and California will start compensating the victims of violent crime next year.

Nationally, Senator RALPH YARBOROUGH, of Texas has proposed a Federal Violent Crimes Commission to aid victims of 14 specified crimes. While it would operate only in Federal areas—the District of Columbia and maritime and territorial jurisdictions of the United States—Senator YARBOROUGH hopes that the States will be encouraged to adopt similar laws if his bill is passed.

The Yarborough bill provides that the Commission could make payments for expenses incurred as a result of death or injury at the hands of a criminal, loss of earning power because of injury or death, pecuniary loss to the dependents of a deceased victim, and any other loss—with a limit of $25,000—which the Commission thinks is reasonable.

The principle seems sound and the Yarborough bill sounds sensible. There could be pitfalls in such a system, however, if it were not worked out very carefully. For instance, fraudulent claims might be made by alleged victims of rape or other sexual crimes. It does not seem likely, on the other hand, that many persons would invite a beating to make a few dollars.

In any case, the principle of government compensation of victims of certain crimes deserves serious consideration. Here in Massachusetts we should watch the California system and follow the progress of the Yarborough bill. "The victim of a robbery or an assault," Arthur J. Goldberg wrote last year when he was still on the Supreme Court, "has been denied the 'protection' of the laws in a very real sense, and society should assume some responsibility for making him whole."

OUR VANISHING WILDLIFE

Mr. YARBOROUGH. Mr. President, on August 23, 1965, I submitted Senate Concurrent Resolution 52, in the 89th Congress, as I had done previously in the 88th Congress, which recognizes the necessity of convening an international program of wildlife conservation, probably under the sponsorship of the United Nations, and with active U.S. participation.

The PRESIDING OFFICER. The 3 minutes of the Senator from Texas have expired.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that I may have 45 seconds more.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. YARBOROUGH. While most of the world is in the midst of a population explosion, many species of the animal world are headed toward extinction.

We have two in this country. They are the two greatest birds alive. They are the condor and the whooping crane. There are fewer than 50 of each species.

Once a form of life has become extinct, however beautiful or thrilling for the human eye to see, there is nothing we can do to restore it.

The forms of wildlife are graphically illustrated and presented in an article entitled "Wildlife: The Vanishing Americans," which appeared on pages 6 through 9 of the Potomac magazine, a Sunday supplement to the Washington Post of October 3.

To illustrate the dangers of extinction, I ask unanimous consent that this article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WILDLIFE: THE VANISHING AMERICANS

While the United States is in the midst of a population explosion (of people), much of our animal population is heading in the other direction—toward extinction.

The urgent need to halt this drive down the road to oblivion was spotlighted recently by President Johnson when he approved the setting aside of 300 acres at the Patuxent Wildlife Research Center in Laurel, Md., as part of a campaign to rebuild native stocks of birds and mammals.

At the Center, rare species threatened with extinction will be raised, trained to look after themselves in the wild, then set loose with the hope that they will propagate.

What is the cause of the vast depletion in the ranks of our native animals? In the past 150 years the United States has lost nearly 40 species of birds and mammals forever—half of them since 1900—and a further 78, including reptiles, fish and amphibians, are on the present danger list.

The answer is a simple one: people, or as officials of the U.S. Fish and Wildlife Service put it, "the encroachment of man."

Large animals are victims as well as small. In Alaska, the polar bear is being hunted from the air in a modern version of the methods used by buffalo hunters to gun down their victims more than a century ago.

Two small private planes pick up a bear's tracks and follow him across the ice floes about 50 miles off the coast. When they corner him on a floe, they chase him back and forth across it for an hour or so until he drops from exhaustion.

One plane then lands and the hunter gets out to finish off the bear with an easy shot from 200 yards. This scene has become increasingly common in recent years as more and more Americans take up polar bear hunting.

According to officials of the U.S. Fish and Wildlife Service, these expeditions may have taken a serious toll of the polar bear and efforts are now underway to see if the species is threatened with extinction, as some conservation officials fear.

Last January, the Bureau of Sport Fisheries and Wildlife, at the request of Secretary of Interior Stewart Udall, compiled a list of 317 rare wildlife species. Some were reported in immediate danger; others, like the polar bear, were classified as "status undetermined," because data on them is still incomplete.

Man does not always hunt animals to extinction. Often they disappear merely as a result of population growth.

For example, one local species, the Southern bald eagle, has been reduced in numbers in recent years as more and more people have moved into its nesting areas. In addition, pesticides sprayed on crops are swallowed by the birds, impairing their ability to reproduce.

Another, the Delmarva Peninsula fox squirrel, a larger variety of the common gray squirrel but with a black striped tail, was found only along the shores of Delaware, Maryland and Virginia. Now it is nearly extinct as a direct result of the population buildup on the peninsula which has cut forests for timber and reduced others by fire.

The success of programs like the one approved by the President at Laurel is evidenced by the story of the whooping crane.

When the Fish and Wildlife Service made a count of these five-foot tall birds in 1938, only 14 remained.

In the years since, a greater attempt was made by the Wildlife Service to protect the birds in their wintering grounds at the Aransas National Wildlife Refuge on the Texas coast. A 100-acre area was fenced off and planted in grain so they could remain undisturbed during their breeding period.

Publicly given to their plight brought shooting to a halt. As a result, there are now 42 whooping cranes and Wildlife officials express guarded optimism that the greatest danger to the species may be past.

THESE ANIMALS FACE EXTINCTION

Here is a list of the 78 species considered by the Bureau of Sport Fisheries and Wildlife report to be in immediate danger of extinction:

Mammals: Delmarva Peninsula fox squirrel, Atlantic right whale, Bowhead whale, Pacific right whale, Nevada kit fox, red wolf, timber wolf, grizzly bear, black-footed ferret, Florida panther, Guadelupe fur seal, Caribbean monk seal, Florida manatee or sea cow, Columbia white-tailed deer or Oregon white-tailed deer, key deer, Sonoran pronghorn antelope.

Birds: Florida great white heron, Aleutian Canada goose, Laysan Hawaiian duck, Main Islands Hawaiian duck (or Koloa), Mexican duck, Nene (or Hawaiian goose), California condor, Florida Everglade kite (or snail kite), Hawaiian hawk (or IO), Attwater's greater prairie chicken, masked bobwhite.

Whooping crane, Hawaiian common gallinule, Yuma clapper rail, Eskimo curlew, Puerto Rican parrot, American ivory-billed woodpecker, Hawaiian crow (or Aala), Puaiohi (small Kauai thrush), Nihoa millerbird, Kauaioo (or Ooaa), Akiapolaau, crested honeycreeper (or Akohekohe).

Kauai Akialoa, Kauai Nukupuu, Laysan finch-bill, Maui parrotbill, Nihoa finch-bill, Ou, Palila, Bachman's warbler, Kirtland's warbler, Cape Sable sparrow, dusky seaside sparrow.

Fish: Atlantic sturgeon, lake sturgeon, shortnose sturgeon, longjaw cisco, Arctic grayling, Atlantic salmon, Apache (Arizona) trout, Montana Westslope cutthroat trout, Piute cutthroat trout, Rio Grande cutthroat trout, Colorado River squawfish, Desert dace, humpback chub, Little Colorado spinedace, Cui-ui, Comanche Springs pupfish, Devils Hole pupfish.

Owens Valley pupfish, Pahrump killifish, Clear Creek gambusia, Gila topminnow, blue pike.

Reptiles: American alligator.

Amphibians: Texas blind salamander, black toad, Inyo County toad.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

BIRTHDAY ANNIVERSARY OF SENATOR McNAMARA

Mr. DIRKSEN. Mr. President, it is probably sheer coincidence, but if I recall correctly, as we prepare for that attenuated discussion of a very fundamental issue, namely section 14(b), this is the birthday anniversary of a distinguished Member of this body. I am referring to the distinguished Senator from Michigan, Mr. PATRICK MCNAMARA.

Long before he came to the Senate he distinguished himself as an outstanding leader of labor in his own State. He has distinguished himself in this body.

While he has not always been overly articulate or vocal, he has indeed been diligent. He has always been kind to every Member who had a problem before either of his committees.

And so, on "B day," that is, 14(b) day, I salute the distinguished Senator from Michigan [Mr. MCNAMARA].

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. BARTLETT. Mr. President, I am happy to join the Senator from Illinois in paying respects to our good friend PAT MCNAMARA, on his birthday anniversary.

I would differ from the Senator from Illinois in only one way. I believe that the senior Senator from Michigan is one of the most articulate of men.

It is true that he, in company with some others of us, does not often speak on the Senate floor, but when the Senator from Michigan speaks, everyone knows what he has in mind and what he is saying. He is sincere. He is direct. To him issues are black or white. There is no large gray clouded area in between. He has his principles, and to these principles he has always adhered.

He knows what he wants to do and most of the time he succeeds in doing what he wants to do.

I have counted it a privilege to be a friend of PAT MCNAMARA ever since he came to this body.

I wish for him many more happy birthday anniversaries.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. DIRKSEN. I will yield but, first, Mr. President, I ask for a little extension of time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIRKSEN. I concur in what the distinguished Senator from Alaska said because our good friend from Michigan follows the old Biblical admonition:

> Let your communication be yea, yea; and nay, nay; for whatsoever is more than these cometh of evil.

I salute the Senator from Michigan.

I yield.

Mr. LONG of Louisiana. On this happy occasion I join in congratulating the Senator from Michigan on his birthday.

Perhaps one of the advantages of being in session this long is that we have the occasion to be here on the birthday of PAT MCNAMARA.

He has been one of the warmest, kindest, most considerate Senators I have known. He exhibits these fine talents at their best.

It is true that he does not always make as many speeches as some Senators do. He does not need to. He has a forthrightness about him, true of his Irish ancestry, so that people do not need to talk with him at length to know where he stands.

I recall an occasion when the Senator from Louisiana was making a speech of considerable length with which the Senator from Michigan disagreed. The way he stomped out of the Chamber left no doubt whatever that he disagreed with that speech.

The Senator from Michigan has helped all of us with the many problems that have faced us in the field of public works and other fields.

We love him and admire him even when we find we cannot agree with him, because he makes a great contribution in approving those things which he believes are right, and fights as hard as any other Member in the Senate; and he respects the rights of those who disagree with him.

For his forthrightness, frankness, sincerity, we all have the highest admiration for him. I agree with him on this occasion. I am sure that even those who do not agree with him respect him, because we have no doubt where he stands, and we have no doubt that he is on the level.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. ERVIN. I associate myself with the remarks made by Senators concerning the distinguished Senator from Michigan.

While the distinguished Senator from Michigan does not entertain the same sound views that I do on all occasions, I wish to record the fact, that notwithstanding disagreements between us on public issues at times, no two Senators in this Chamber have enjoyed a more pleasant relationship.

I join the Senator from Alaska in wishing the Senator from Michigan many happy returns of this day.

I hope he will be here to celebrate his 100th birthday anniversary, and that I will be invited on that day to attend his 100th birthday anniversary party.

Mr. YARBOROUGH. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. YARBOROUGH. I express my thanks to the distinguished Senator from Illinois for calling this auspicious occasion to the attention of the Senate and permitting us to share with him and the distinguished Senator from Michigan this moment of pleasure, this moment of earned congratulation.

I have the privilege of serving on the Committee of Labor and Public Welfare with the distinguished Senator from Michigan. He is the ranking majority member. He is chairman of the Public Works Committee.

While the distinguished Senator from Illinois [Mr. DIRKSEN] is the minority leader and the leader of his party, and while the distinguished Senator from Louisiana is the majority whip and the leader of his party, at this time on the floor, PAT MCNAMARA is the committee chairman; and the committee chairman does not have to call the committee together if he does not wish to do so.

He is chairman of the Committee on Public Works. Without that committee many welfare benefits would not come to my State.

While PAT MCNAMARA is best known as the chairman of the Public Works Committee, I have seen him in attendance many more hours in the Subcommittee on Education, and voting on public health measures than on all the labor matters that have come up in the past 2 or 3 years. He is a diligent lieutenant.

He is the ranking member on the Subcommittee on Education. The 88th and 89th Congresses considered more education bills than we have ever had, in any Congress. He has been a member of every conference committee dealing with these subjects. I believe he votes right on these matters, and I vote with him.

Under the distinguished leadership of the senior Senator from Alabama, the Senator from Michigan and the Committee on Labor and Public Welfare education has been expanded and extended.

It is a pleasure to be here and see the recognition of this Senator in this body. We might retire to the cloakroom.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. HOLLAND. I join in expressing these cordial birthday greetings to the distinguished Senator from Michigan.

There is no kinder or more diligent Senator than he; I feel certain that there is no more frank or forthright Senator. One never has to be long in a state of wonderment as to where Senator MCNAMARA stands. We may not be pleased with his stand, but he will tell us kindly, forthrightly, and definitely where he stands on a specific question that is before us. I find no other Member of the Senate who is more frank or forthright than is the senior Senator from Michigan.

As chairman of the Committee on Public Works, he has been called upon, along with his committee, to pass upon many matters of great importance to the State which I represent, in part. He has been highly sympathetic and responsive and most kind. Speaking for my State as a whole, we are grateful to him for his sympathy, kindness, and responsiveness. That does not mean at all that he has always agreed with our position, although he generally has done so. We always try to take a responsible and defensible position, but regardless of what our position may have been he has been always kind, considerate, and industrious. Therefore, I salute him on this happy occasion when, as a relatively young man, he is passing another milestone. I hope he will pass many additional milestones, happily and in good health.

Mr. MCNAMARA. Mr. President, will the Senator from Illinois yield?

Mr. DIRKSEN. I yield.

Mr. McNAMARA. I thank the minority leader, the acting majority leader, and my other colleagues for their charitable, kind remarks. It is most heartwarming to have one's fellow workers in any walk of life express such heartfelt personal regards, and I appreciate them.

While the Senator from Illinois [Mr. DIRKSEN] was speaking, someone handed me a note which indicated that the time being consumed would be charged to me. I did not know what the significance of that is. However, this time, apparently, it is to be charged to me. So accordingly, I shall be brief.

I again thank all who have spoken so kindly of me. When a man reaches the age of 71 years, there is very little to celebrate. Thanks again.

FIRST INTERNATIONAL SYMPOSIUM ON WATER DESALINATION

Mr. YARBOROUGH. Mr. President, during the past 5 years, the Congress of the United States has moved forward at a rapid pace with authorizations and appropriations for research on water desalination. It is a matter of the utmost importance to most nations on earth. Very few nations have adequate water supply, but most nations have the sea available at their door. Many nations and portions of nations have underground brackish water supplies which an inexpensive method of desalination would make available for the uses of man.

Inexpensive desalination would mean plenty of food for most peoples.

As one of the appointed representatives of the U.S. Senate to this first international symposium, it was my privilege to attend the opening ceremonies today in the auditorium of the Interior Department Building and to listen to all of the opening speeches and remarks.

I ask unanimous consent that the program for these opening ceremonies today, Monday, October 4, 1965, of this imposing, important, precedent-setting First International Symposium on Water Desalination be printed at this point in the RECORD.

There being no objection, the program was ordered to be printed in the RECORD, as follows:

FIRST INTERNATIONAL SYMPOSIUM ON WATER DESALINATION, WASHINGTON, D.C., OCTOBER 3–9, 1965

OPENING CEREMONIES

Music: U.S. Air Force Band, Maj. Arnald Gabriel, U.S. Air Force, directing.

Welcome of participants: The Honorable Kenneth Holum, Assistant Secretary of the Interior for Water and Power Development; chairman of the U.S. delegation to the symposium.

Introduction of the Secretary of the Interior of the United States of America: The Honorable Kenneth Holum.

Principal address: The Honorable Stewart L. Udall, Secretary of the Interior of the United States of America; honorary chairman of the symposium.

Remarks by representatives of the United Nations; the International Atomic Energy Agency; the Food and Agriculture Organization of the United Nations; European Atomic Energy Community; and the United Nations Educational, Scientific, and Cultural Organization.

Music: U.S. Air Force Band.

Adjournment.

Mr. YARBOROUGH. Mr. President, the opening statement by the President of the United States, Hon. Lyndon B. Johnson, was read for him at his absence in New York City today by Dr. Donald F. Hornig, Special Assistant to the President for Science and Technology. I ask unanimous consent that the opening statement by the President be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE PRESIDENT TO BE READ BY DONALD F. HORNIG, SPECIAL ASSISTANT TO THE PRESIDENT FOR SCIENCE AND TECHNOLOGY AT THE FIRST INTERNATIONAL SYMPOSIUM ON DESALINATION, WASHINGTON, D.C., OCTOBER 4, 1965

I welcome you to this international symposium.

You represent more than 60 nations. You have come here from all parts of the world. And you have come to search—together—for a common solution to a common problem.

Even while you deliberate, men are without water. Land lies untilled which should produce food for the hungry. People around the world are impatient for the results of your efforts. And I am the most impatient of all.

Techniques to desalt water have been used in many places for many years—on ships at sea, among the islands of the Caribbean, in desert lands along the Persian Gulf. But if our vision for the future is to be realized—the vision of an inexhaustible supply of pure, drinkable water—then the cost of desalting must be drastically reduced.

With this objection, the United States began a program of research and development over a decade ago. It has already yielded heartening results. We have built five plants capable of testing new technologies. Their daily capacities range from a few hundred thousand gallons to more than 2 million gallons. We have built and operated a score of pilot plants. We have witnessed the cost of desalted water cut in half and then halved again. To accelerate this work, we have recently launched a new 5-year, $200 million program of research and development.

We have concrete goals in view: by 1968, to construct plants with the capacity of 10 million gallons a day; by 1970, to extend the range to 100-million-gallon plants. We are also at work on smaller plants varying in size from less than 1 million gallons to 15 million gallons per day, employing many different processes.

From the creative work you perform in your laboratories and on your drawing boards, and from conferences like this one, we will gain new freedom from the harsh accidents of geography. Brackish wells will nurture crops—and the oceans, pure and clear, will flow from our faucets.

The need is worldwide, so must be the effort. Knowledge, like thirst, belongs to all men. No country can be the sole possessor. We in this country are ready to join with every nation—to share our efforts, to work in every way. We cannot wait—for the problem will not wait.

Mr. YARBOROUGH. Mr. President, the opening address was made by Hon. Stewart L. Udall, Secretary of the Interior of the United States, who is serving as honorary chairman of the Symposium. I ask unanimous consent that Secretary Udall's opening address to this First International Symposium on Water Desalination be printed at this point in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS OF STEWART L. UDALL, SECRETARY OF THE INTERIOR AND HONORARY CHAIRMAN OF THE FIRST INTERNATIONAL SYMPOSIUM ON WATER DESALINATION, WASHINGTON, D.C., OCTOBER 4, 1965

On behalf of the United States of America and President Lyndon Johnson, I welcome the delegates and participants to the First International Symposium on Water Desalination. It is our carefully considered opinion that the delegates to this conference—representing 65 countries and 5 continents—constitute the most impressive array of water engineering talent ever assembled in history.

President Johnson set the tone for our meeting when he said that:

"A dependable supply of fresh water is an absolute requirement for a world seeking peace and prosperity. Water is needed to grow food, to permit basic development in emerging nations, to allow industrial expansion in others, and to increase living standards for an increasing world population.

"The developing technology of water desalting has received enthusiastic and universal support by nations, large and small, again demonstrating that international cooperation is the key to humanity's advancement."

I am confident of success—not only success in the effort to solve the engineering and technical problems which face us, but more importantly in the effort to work together for the universal welfare of mankind.

Our attention is focused on water—usable potable water. From time immemorial, as reflected in the literature and legend of every civilization and religion, man has sensed the obligation of stewardship over the planet's supply of water fit for human use. As our world population doubles on a cycle of decades, rather than centuries or millenia, that obligation of stewardship becomes correspondingly more pressing. In the end man will conquer poverty, famine and disease only as he masters the problems of water supply.

The United States began its formal desalting program in 1952. Until last year, this country's effort concentrated on basic research, and on the construction of demonstration plants.

But last year, President Johnson saw that the time had come for what he called "a significant leap forward." With the cooperation of the Congress, now my country is embarking on an accelerated desalting program.

President Johnson hailed the new law, saying, "It would be difficult to exaggerate the power for good, the palliative effect on age-old animosities and problems, that would result from providing an abundance of water in lands which for countless generations have only known shortage."

Under the new charter, we hope to master the technology of big plants, to serve major population centers; and we will pursue the refinement of small equipment, mobile and versatile; and we will give equal attention to processes for improving the usefulness of underground brackish waters that represent a major resource in many parts of the world.

The United States will soon need major new sources of water for its great cities. Smaller towns on our seacoasts and many inland communities have similar needs.

The world's needs run the same gamut. Some countries require large plants to serve their large cities, while in other places, it is the smaller plants for small towns and islands which are needed. Our joint purpose at this conference is to discuss and

describe the means whereby all of these goals can be achieved for the benefit of all.

A variety of processes, engineered to fit a particular requirement, will supply alternatives for the differing needs.

The cost of energy is a critical component of the costs associated with any process. Reducing energy costs is a goal. Our country will pursue this inquiry with conventional fuels—coal, oil and gas—and with nuclear energy.

We have committed our finest talent to this total effort. We are eager to share what we know and learn. We need your help in a real worldwide effort if we are going to succeed.

During this conference experts from colleges and universities, from industry and from Government will present technical papers. They will discuss progress and obstacles with their counterpart scientists and engineers from other countries.

Speakers from my country will discuss in detail the progress we have made, the processes we consider hopeful, and the unanswered problems we have identified. We will listen with keen interest to the presentations from our distinguished visitors.

As most of you know, my Department, Interior, is cooperating with the Atomic Energy Commission, and the Metropolitan Water District of California in a feasibility and engineering study of a 150-million-gallon-per-day distillation plant. Preliminary reports indicate that a well designed plant using nuclear energy can produce fresh water at seaside for 22 cents a thousand gallons and generate electric power for as little as 3 mills per kilowatt hour.

The southern California study is the most advanced of several investigations that we have underway. We are excited and encouraged by the results that are emerging. If your country has large cities or regions with substantial and acute water supply problems you will be interested in our discussions of this study.

Although our large plant effort often receives the most attention, this is only one part of our total program.

We are determined to develop processes that will produce water economically in smaller quantities. Our immediate goal is developing the ability to build plants which will produce between 1 million to 10 million gallons per day for 50 cents a thousand gallons. We expect to succeed.

Completely new processes are under development. Among the newer ideas reverse osmosis has particularly attracted the attention of our technicians. Because the process has inherent technical advantages, it will receive special attention in our development scheme.

Basic research has been substantially increased. We want to know more about water—and we hope to discover entirely new ways to make it usable, including an attack on the problems of pollution and chemical contamination which results in an absolute shortage of usable water, producing famine, disease and even threats to the peace.

All of what we have learned to date will be available at this symposium. We expect to discuss our ideas and yours in an open and relaxed atmosphere. We will all benefit.

Nonetheless, we hope for more from this conference than a mere exchange of technical information. We must recognize water is our most vital resource. Man can exist without food for as much as 60 days. Without water, he will perish in five. Three billion people on this planet are competing for the available fresh water, and there is essentially no more water today than there was when civilization began. Furthermore, it is essentially the same water. The dribble from a leaky faucet in our homes may be the liquid which slaked the thirst of a dinosaur, watered the hanging gardens of Babylon, or refreshed Hannibal at some Alpine stream. Man's survival is threatened by water problems.

With so much involved for the whole world, I challenge the delegates to this conference to think in terms of a worldwide cooperative effort to solve the problems of desalting in the shortest possible period of time.

To begin that effort my country will:

1. Supply to all countries represented here, and to others on request, a complete set of research and engineering studies published by our Office of Saline Water. We will expect these exchanges to be reciprocal. We will help establish technical desalting information centers at appropriate locations to insure maximum benefit to all countries.

2. We invite you, or other representatives of your country to visit our desalting plants, test centers, and research laboratories. Our technicians will be equally interested in seeing what you have accomplished.

3. Countries that look to desalting to solve water problems will need trained engineers to design and manage plants. The United States will be eager to participate in a training program designed to make certain that the necessary supply of trained technicians is developed wherever it is needed.

4. In cooperation with the Department of State, my Department will expand its program of assisting other countries in regional and national water surveys. The Atomic Energy Commission, where appropriate, will join them to seek the most economic solution available.

5. The Agency for International Development in reviewing its programs will give increased attention to water supply problems.

6. We will enlarge our capacity to render advisory and consulting services to countries seeking assistance in developing water resources programs to meet their present and future needs. These services will encompass the traditional water resource techniques as well as desalting.

I propose that we arrange a continuing worldwide exchange of information related to desalting. My country recognizes that scientists from many countries have contributed substantially to the information that we have available now.

As an example consider reverse osmosis. We plan a major effort to complete the development of this process. Nonetheless we recognize that the basic principles were first identified by French scientists and that basic patents have been awarded to Indian nationals.

A successful worldwide cooperative effort that solves man's water supply problems will produce results that stagger the imagination. More water means more food, less disease and in many countries new opportunities for economic growth.

For centuries water shortages have caused quarrels between neighbors and in the case of international rivers, these shortages have contributed to international tensions. The scientists working at this symposium can dream ahead to the day when large combination water-powerplants provide cheap energy to drive the wheels of industry, electrify the countryside and create enough fresh water to resolve sterile arguments over dry streams.

Already international cooperation in desalting is underway. Among our recent activities in this regard was the visit of a highly qualified team of U.S. water and power experts to the United Arab Republic and Tunisia. We are currently providing technical advice on a desalting project in Saudi Arabia and are cooperating in a study of the feasibility of a dual-purpose desalting plant in Israel. Last November the United States and the Soviet Union, where excellent work in desalting is being done, entered into an agreement to cooperate in the field of desalting.

Working together, we can assure that nations and cities will have a choice in their search for the best and cheapest source of water; that every country can have abundant, reliable, and reasonably priced pure water.

A thirsty world is watching this assembly. Science and technology can find economic ways to desalt water. I am confident that this conference will lead to accomplishments of great significance to every person on our planet.

Welcome—and have a great conference.

REPEAL OF SECTION 14(b) OF THE NATIONAL LABOR RELATIONS ACT, AS AMENDED

The Senate resumed the consideration of the motion of the Senator from Montana [Mr. MANSFIELD] that the Senate proceed to the consideration of the bill (H.R. 77) to repeal section 14(b) of the National Labor Relations Act, as amended, and section 703(b) of the Labor-Management Reporting Act of 1959, and to amend the first proviso of section 8(a)(3) of the National Labor Relations Act, as amended.

Mr. DIRKSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Illinois will state it.

Mr. DIRKSEN. What is the pending business?

The PRESIDING OFFICER. The pending business is the motion of the Senator from Montana [Mr. MANSFIELD] that the Senate proceed to the consideration of H.R. 77.

Mr. DIRKSEN. Mr. President, the Senate and the country know generally that we are about to embark on what I am pleased to call attenuated discussion of a fundamental problem. I am mindful of the fact that the country is honored today by a visit from His Holiness the Pope, the spiritual head of the Roman Catholic Church throughout the world, and that a substantial number of Senators will be in attendance at the ceremonies in New York.

I am sensible also of the fact that quite a number of Senators—four from the minority side and six from the majority side—are in official attendance at the Conference of NATO Parliamentarians, in New York City.

It is the custom—and I believe everyone recognizes it—that in the list of the weapons authorized by the rule book for the conduct of an extended discussion is the use of the quorum call, and to have it made a live quorum call. It might be embarrassing if I resorted to live quorums today under these circumstances, and I assure the distinguished acting majority leader now that we shall make no requests for live quorums today, so that our membership can return in due time to attend to the business of the Senate.

Mr. LONG of Louisiana. Mr. President, will the Senator from Illinois yield?

Mr. DIRKSEN. I yield.

Mr. LONG of Louisiana. I thank the Senator from Illinois for his courtesy, particularly in view of the fact that I do not believe in sending the Sergeant at Arms to arrest Senators who do not favor the bill. It is my theory that we

who are for a bill ought to make our plans to be present. I hope that in the future all Senators can be on notice that if they desire the bill to pass, they had better be present to make quorums. The junior Senator from Louisiana is present.

I hope that tomorrow it will not be necessary to resort to unusual devices to seek to arrest Senators who are opposed to the bill, so as to develop a quorum. I do not like that idea at all.

Mr. DIRKSEN. The distinguished Senator from Louisiana is, of course, fully aware that there is a strange contagion in the area. It is the contagion of adjournment. Senators want to go home. They are battle weary; they are fatigued; they have been loaded down with what we might call the productivity of this session. Of course, when I use the word "productivity," I am thinking in terms of sheer volume, not necessarily of quality.

Besides, there is always the question of exactly how the monumental proposals that have had the approbation of Congress will finally work. That will be the ultimate test.

Notwithstanding all that, Senators still want to go home. Some would like to go home for recreation and for a rest. I think that would include the minority leader. Others have far more serious business at home. They see the shadow of 1966 fall athwart the receding months of 1965. When they look in the Congressional Directory, they will observe that in due course their tenure will come to an end and that they have serious business with the people. That gives me a little cue at the opening of this discussion, because I believe an editorial published in the Wall Street Journal of September 23, 1965, is rather significant on that point. Its title is "The Will of the People." I shall read it in full. I shall read many editorials in full.

If I have kept an accurate account, there are now in excess of 3,000 editorials on my desk. They are from every State in the Union. If the Lord is willing, if my energy remains intact, if I can stand in shoe leather long enough and forget about my lunch long enough—and, parenthetically, food means so little in my life—I may be compelled to read all 3,000 and more of these editorials into the RECORD.

Mr. President, I begin with this editorial because it is well written and goes to the point. It raises a question on which I feel deeply because there has been some observation that extended discussion is, in a sense, a departure from the democratic process. In my judgment it is not. This editorial goes to that point.

Under the caption, "The Will of the People," the editorial reads:

[From the Wall Street Journal, Sept. 23, 1965]

THE WILL OF THE PEOPLE

In the view of the AFL–CIO, Senator EVERETT DIRKSEN will be guilty of a "flagrant perversion of the democratic process" if he leads a filibuster against repeal of the Taft-Hartley Act's section 14(b), which permits States to outlaw the union shop.

By thus raising the issue of democracy, the federation may have committed a tactical blunder. Some people, possibly even including a few legislators, may be spurred to a little hard thought on the true role of the democratic process in this dispute.

For one thing, lawmakers may pause to reflect on whether, back home among their constituents, there actually is wide approval of the idea that workers should be forced to join unions to keep their jobs. For what it's worth, public opinion polls suggest the will of the people is to the contrary.

In fact, a number of supporters of 14(b) repeal seem in doubt as to the measure's public support, since they're extremely leery of having action deferred until 1966. Next year, you see, is an election year, and the lawmakers are understandably fearful that the things they do then may be more likely to be held against them than what they do now.

Besides pondering practical matters such as defeat at the polls, legislators may exist who will go so far as to consider the more philosophic question of the relationship of democracy and labor unions.

The labor unions long have claimed to be among the most democratic of all organizations. The unions' leaders selflessly work to protect the best interests of all the workers they represent. Or so the theory goes, anyway.

If the theory were always applied, it would be hard to explain why union leaders are so eager for the power to force all workers into membership. Devotion to the needs and desires of the workers naturally should draw recruits in droves. But the theory, unfortunately for the members, is more honored in the breach.

In some cases union leaders are clearly out of touch with their constituents. At the moment thousands of coal miners are on strike in West Virginia and Pennsylvania—not so much against their employers as against the way their leaders have been representing them.

In other instances union officials appear not to care a great deal about their constituents' needs. Otherwise it would be inexplicable that a maritime union could tie up much of the Nation's merchant marine over such issues as whether ships' captains should be card-carrying unionists. Or that ship unions generally, with their irresponsible behavior and incessant wage demands, could drive an ailing industry, and their members' jobs, ever closer to extinction.

It's difficult to see, too, how the Newspaper Guild is representing the real needs of its members by bringing on a shutdown of New York's newspapers; the issues include such items as control of a machine that hasn't been invented yet. We assume the union hasn't forgotten that the last New York strike helped put one paper out of business.

Perhaps it will occur to some Congressmen that the unions in these and too many other cases are behaving less like democracies than near-dictatorships. A dictator worries mainly about his personal power, not the needs of his subjects. And even a senseless strike may, in the short run at least, buttress a union leader's control of his organization.

If the leaders can force all workers to join their unions, their power is further enhanced. No longer is it so necessary even to make a pretense of serving members' needs. Members can be kept in line more easily; with the sanction of Federal agencies, they can be penalized for crossing picket lines or for suggesting that they would like a new election to pick the union to represent them.

For these reasons it seems to us that the AFL–CIO's talk of democracy is out of place in the union shop dispute. More in point was the threat issued by Elmer Brown, the head of the International Typographical Union, to defeat any "double crossing" Senators who fail to vote for 14(b) repeal.

Though such flagrant muscle-flexing may offend the more sensitive Senators, they may as well face up to the facts of the matter. What's involved here is a union powerplay, not by any stretch of the imagination an effort to assert the will of the people.

I believe that editorial answers whether extended discussion in the Senate is a part of the democratic process. There is also the fact that, when there is a concert of views among the minority—and a very substantial minority at that—we owe it to the country, to our constituents, to ourselves, and to the Senate as an institution to use all available weapons in order to inform the country and make certain that the whole story is told before we get through.

I have two other editorials that I think condition the whole basis for the discussion that will take place. The first editorial is from the Washington Daily News of Wednesday, May 19, 1965. The title of the editorial is, "Keep Section 14(b) Alive."

The editorial reads as follows:

This newspaper believes that labor unions, honestly run, perform valuable service for their members, the community and the country.

But we also favor keeping alive the principle of freedom of choice in an increasingly regimented world.

For both these reasons, we urge Congress not to repeal section 14(b) of the Taft-Hartley Act, which permits States to pass so-called right-to-work laws barring compulsory union membership.

Section 14(b) has been denounced by labor leaders as a death blow to union organizing drives. It has been sanctified by anti-union employers as a magna carta for their employees. Since it was enacted 17 years ago, it has been the target of more hot air from both sides than almost any other piece of legislation within memory.

Using official Government statistics, it can be "proved beyond doubt" that workers in the 19 States with right-to-work laws are (a) moving faster economically than those in States without them, or (b) falling behind the employees in the 31 other States. What is proved depends on the preconceived point of view.

The fact is that section 14(b) is neither as bad as its opponents claim nor as effective as its supporters pretend. It does not prevent unions from organizing every worker in the United States if they are able to do so. Conversely, it neither grants the right to work to anyone nor gives Federal sanction to union busting anywhere.

What it does is simple. It says that a State, if it wishes, may pass a law forbidding union membership as a condition of employment—in other words that a State can see to it that no one is forced to join a union in order to hold a job.

Unions argue that under Federal law they are required to represent every worker in a plant, whether or not he supports the union or pays dues. For that reason, they say, it is unfair to prevent them from signing a union shop contract with a willing employer which would compel "free riders" to contribute to the union from which they benefit.

But it can be argued equally that a union which has to earn the loyalty of workers is much more likely to be honest and aggressive than one which can merely sit back and collect their dues.

In this connection, it is interesting to note the words of former Labor Secretary Arthur Goldberg when the longtime union lawyer

was explaining to Government workers why the union shop was not for them.

"In your own organization," Mr. Goldberg said at a 1962 meeting of the American Federation of Government Employees, "you have to win acceptance not by an automatic device which brings a new employee into your organization, but * * * by your own conduct, your own action, your own wisdom, your own responsibility, and your own achievements.

President Johnson, calling for repeal of 14(b) in his labor message Tuesday, gave no reason beyond the vague suggestion that it would help reduce "conflicts in our national labor policy that for several years have divided Americans in various States."

Surely Congress will need more convincing arguments than that to destroy a legal provision which merely permits States to decide for themselves what course they want to pursue.

Mr. President, that simplifies the rest of the issue, and to it I add one more column, this one from the Washington Post, dated Thursday, September 30, 1965, by John Chamberlain, whose column is syndicated by the King Features Syndicate.

The title is very entrancing to me, because it reads, "Nobody but the People."

I am reminded of the fellow who was caught in the chicken coop, and when the owner came with a shotgun and shoved it through the door, shouting, "Who is in there," the culprit had to say something, and the only thing he could think of to say was, "Only us chickens."

This is "Only us people," and there is nobody but the people. So we listen to what John Chamberlain had to say:

A lot of people in Washington are pinching themselves and saying "It's too good to be true." They are referring to the prospects that the big push of the labor bosses to compel the U.S. Senate to repeal section 14(b) of the Taft-Hartley Act (the law that lets the States make up their own minds on compulsory unionism) is not going to succeed after all.

The primary reason for thinking the pro-14(b) forces will be able to use "extended debate" (the polite term for filibuster) to put consideration of a change in the labor laws over to next year is Republican leader EVERETT DIRKSEN'S insistence that "the Senate will not act speedily on this issue so basic to Federal-State relations."

But beyond DIRKSEN'S commitment there is the response from the country that shows a filibuster to retain 14(b) will have tremendous popular backing, which sets it apart from filibusters of the past. DIRKSEN knows this.

He certainly does—

he has a gigantic pasteup of 2,000 newspaper editorials and 500 columns supporting the pro-14(b) cause to remind him that there is nobody behind him but the people.

The 20-odd Senators who have decided on "extended debate" are already organized in depth.

And that is true.

The burden will be almost evenly distributed among Republican and Democratic Senators.

The parliamentary strategist for the pro-14(b) group will be Democrat SAM ERVIN, of North Carolina, who cut his eyeteeth in "extended debate" maneuvering when he was Senator RICHARD RUSSELL'S outrider in the filibusters of yesteryear.

The Senators who will lead the extended debate include BENNETT of Utah, CURTIS of Nebraska, TOWER of Texas, MCCLELLAN of Arkansas, HOLLAND of Florida, THURMOND of South Carolina, HICKENLOOPER of Iowa, MORTON of Kentucky, MUNDT of South Dakota, and CARLSON of Kansas.

Mr. President, I shall have to write John Chamberlain and tell him he has by no means the whole list.

The labor bosses have a great deal to fear from any filibuster that would license MCCLELLAN, for example, to expatiate to a national audience on what he has learned on the subject of labor racketeering during his Senate investigations.

In extended debate the spokesmen for the union chiefs will be compelled to uphold compulsion in unionism. The idea of compulsion can hardly be prettified when it is linked to mandatory obeisance to some of the racketeering fauna who have taken the fifth amendment in MCCLELLAN'S committee room.

Regardless of whether the filibuster is successful, it has already paid big dividends to one man, Republican Senator TOWER of Texas. He plans extended speeches on the use of union funds for political purposes over the past 11 years.

TOWER has discovered that opposition to a repeal of section 14(b) has restored all his lost popularity in Texas.

If he ever lost anything—and I do not believe he did.

A year ago private polls showed that he had no hope of retaining his senatorial seat in the next election. Now the polls disclose that he has an excellent chance of defeating Waggoner Carr or Representative JIM WRIGHT, who will presumably fight it out in the primary for Democratic nomination. Since retention of 14(b) has a great hold on Texas people, any forum that gives TOWER an opportunity to speak up for voluntary unionism is bound to increase his popularity with the home folks. And should his Democratic opponent for the Senator's job be WRIGHT, who was one of four Texas Representatives to vote for repeal of 14(b) in the House, TOWER could be a shoo-in.

Even Senator LISTER HILL, Democrat, of Alabama, has seen the handwriting on the wall. Ordinarily a 100-percent labor supporter, he has indicated that he will go along with the extended debate.

Although I was talking about Texas, Mr. President, to me it is a curious political circumstance that when the distinguished President of the United States was then running for the U.S. Senate and for the Vice Presidency at one and the same time, he was confronted with an interesting question, to say the least, because the platform of the Democratic Party in the State of Texas was as clear as crystal, that it opposed repeal of section 14(b). The Democratic national platform that year, on which the distinguished President ran, was unequivocally for repeal of 14(b).

Let me tell the Senate, it takes some doing to ride two spirited horses going in opposite directions. But is was successfully done, at least on one occasion. But the record is there, so far as that lusty breed from Texas—and they are a lusty breed—are concerned. They know their minds. They wrote it into their State platform and, in due course, we shall read all the editorials from Texas into the RECORD.

Mr. President, if anyone thought we were bluffing, he should get it out of his mind. We have collected all the editorials packaged by States. Let me say to my distinguished friend the Senator from Connecticut [Mr. RIBICOFF] that I am going to read into the RECORD the editorials from Connecticut. Perhaps he will not agree with them; nevertheless, I shall read them, or I will have someone else read them when the time comes.

Let me say to the distinguished Senator from Florida [Mr. HOLLAND] that he should see the pile of editorials we have collected from his State. They have been all pasted up. They are easy to read. No one will need his bifocals.

Mr. HOLLAND. Mr. President, will the Senator from Illinois yield?

Mr. DIRKSEN. I am glad to yield to the Senator from Florida, provided that in doing so I shall not lose my right to the floor.

Mr. HOLLAND. I thank the Senator from Illinois; and let me tell him that I hope he will read all those editorials, because the comments of Florida editorialists are so strongly opposed to the repeal of section 14(b), although there are, it is true, two or three newspapers which take the opposite position in my State. These latter newspapers are—though with able editorialists—so greatly in the minority that I am sure the distinguished Senator will find, when he weighs the number of editorials that inveigh against repeal, as against the two or three who favor repeal, that Florida—at least as expressed in the editorials—strongly favors his position.

While the Senator has yielded to me for a moment, may I ask whether he intends, in the course of his able remarks, to say something about the expressions from members of organized labor on this subject. This subject has been most intriguing to me. Several hundred communications have been sent to me from members of labor unions in my own State who strongly favor the right-to-work provisions of our State constitution and who strongly oppose repeal of section 14(b).

Does the Senator from Illinois expect to deal with that subject later in his rather brief address?

Mr. DIRKSEN. Oh, indeed, I shall. Late last night I looked into the rule book to find out what items a Senator could bring into the Chamber and what items he could not. A long time ago, a rule was adopted prohibiting Senators from bringing flowers into the Chamber. Had I been in the Senate at that time—that must have been 60 or 70 years ago—it would have broken my heart, because I can think of nothing nicer than to see a little stem vase with a gorgeous rose in it sitting on my desk. But I found that it was in violation of the rules.

But, Mr. President, I could find nothing in the rules to prevent me from coming into the Chamber with two or three sacks full of mail—large, canvas, mail sacks—from union members.

I propose, unless it is a violation of the rules, to have one of my staff assistants come in and pour that mail on top of my desk. The desk, of course, will not be able to hold it all, and the mail will cascade onto the floor of the Senate and into the aisle.

I do not see the Parliamentarian in the Chamber at the moment, and I had therefore better not raise that issue at

this moment, but later I wish to obtain a ruling from the Chair as to whether we can do that and not transgress the rules of the Senate.

If the Senator now occupying the Chair is not prepared to rule, I will withhold my request and make it later, when the Parliamentarian is in the Chamber.

Mr. HOLLAND. Mr. President, will the Senator yield further?

Mr. DIRKSEN. I yield.

Mr. HOLLAND. I hope the Senator will receive permission to cascade his accumulation of mail from labor members and former labor members onto the floor of the Senate, but I also hope that he will not insist on his collaborators pouring their own files upon that file, because in my files I have several hundred such letters, and I would appreciate the opportunity, at the appropriate time, to read some of them, because the writers set forth in some detail the cruelties which they feel have been imposed upon them by the racketeering practices which have been followed from time to time in various, misled labor unions.

Therefore, I hope that while the Senator will carry out his course successfully, he will enable each of his collaborators to develop his own file of such communications, because I believe they will constitute one of the most forceful expressions which we have, showing the complete unwillingness on the part of good, sound, lifelong, labor union members to be subjected again, as they were under the Wagner Act, to the complete domination of the relatively few leaders of organized labor who have been willing to become racketeers in this field.

I think that the Senator will find we may be able to augment the showing he will make in respect to Florida in a very distinct way.

Mr. DIRKSEN. It will be a distinct public service, so I appreciate what the Senator from Florida has said that, at the appropriate time, when he takes his place on the floor of our valiant ranks to do battle, he will be fortified with these letters containing the opinions of the folks back home.

Of course, as reflected in the polls from time to time, instead of strength receding to retain section 14(b), it is in fact increasing, and in my judgment it will continue to increase.

Mr. HOLLAND. Mr. President, I firmly believe in that same conclusion. I look forward to the time when I may have an opportunity to second the remarks and the position of the distinguished Senator.

I am glad the Senator from Illinois has taken the leadership in this fight. I feel quite sure that the general public of this country does not want to see a return to the condition of abject surrender to leadership, which too often has been unsound and improper in the direction labor has been led by many labor leaders. I am one of those who believe those who have led in the wrong direction and who have been labor racketeers have been greatly in the minority; but they have certainly transgressed time after time after time. I do not want to be a party to opening up the door to permit renewal or continuation of those transgressions.

I thank the Senator for yielding.

Mr. DIRKSEN. Mr. President, to continue my formal discussion of this issue, I now go back to 1932. That was the year Congress passed the Norris-LaGuardia Act. I believe the distinguished Representative who later was mayor of New York was just leaving the Congress as I came in. The distinguished Senator from Nebraska, the Honorable George Norris, was still here. From those two distinguished gentlemen the Norris-LaGuardia Act got its name.

The bill dealt with the question of the use of Federal injunctions in the case of labor disputes. It dealt also with the question of the enforceability of a promise by an employee to an employer to join or not to join a union.

Certainly the Congress went a long way at that time to safeguard the rights of labor, almost to a point where it might be said they could very well have overreached just a little.

Then we come to the year 1933. I was in the other body at that time. It was in that year that we approved the National Industrial Recovery Act, made famous by the Blue Eagle. The Blue Eagle has disappeared. I suppose one would have to be a historical bone-picker to even find one of the old placards, unless some of them may be found in the Smithsonian or in the National Archives or in the Congressional Library. But there the question came up about the right to join or not join a union.

We also dealt with the closed shop. We dealt with many other matters, including the suspension of the antitrust laws, so that trade organizations could be set up to fix prices.

I remember so well the pants presser in New Jersey who seemed to be getting along pressing pants at 35 cents a pair. But the trade organization said, "You have got to charge 50 cents." He said, "I won't do it." They took him to jail for failing to do it. I remember the battery manufacturer in York who seemed to have been getting along making them for $7.50. The trade organization said to him, "You must charge $10," or some other such figure. He said, "I refuse to do it."

It is a little unbelievable that in the days of the New Deal and the Blue Eagle we suspended the Antitrust Acts of this country in order to make it possible for a trade group to force prices upon individual manufacturers. But what happened? There is a distinguished judicial body that sits over across the way here that ultimately passes on these matters. Quite often I agree with them. Sometimes I thoroughly disagree with them, as in the case of legislative reapportionment, because I believe on that occasion the members of the Court were going into a legislative thicket where the Supreme Court had no business. But, in any event, the act was declared unconstitutional.

Then, a year later, in 1935, came the Wagner Act. Mr. President, that was 30 years ago. I remember it so well. I was finishing my first term over in the other body. It was hailed as labor's magna carta. It legalized the closed shop. It was a one-sided measure, to say the least. It was weak on unfair labor practices by labor organizations, and it certainly conferred undue powers upon a labor board. That was 30 years ago.

But when we got around to 1947 I think the country generally had tasted so freely of abuses, there was so much industrial unrest in the land, that something had to be done.

The figure I managed to comb out of the books for the year 1946, the year before the Taft-Hartley law was enacted, was a loss of 160 million man-days because of strikes.

Talk about industrial unrest. We really had it in this blessed country the year before Taft-Hartley. And so in 1947, at the instance or through the efforts of that distinguished man from Ohio, Bob Taft, and the distinguished Representative from New Jersey, Fred Hartley, we finally contrived the Taft-Hartley Act. The House approved it. The Senate approved it. Believe it or not, the Senate approved the Taft-Hartley bill by a vote of 54 to 17. I do not have the House figure. But it was interesting to understand the philosophy that motivated Bob Taft to go along with the Taft-Hartley Act. He was deeply schooled in the history of this country and very well in industrial history and the evolution of business.

Bob Taft knew of the abuses of big business in another day. Nobody undertakes to conceal them.

One can enjoy himself if he wishes to go back and read about the violence of the rail strike in 1877. There was the Homestead steel strike in 1892, and the Ludlow strike in Colorado; and we became familiar with men on horseback riding down workers who were trying to assert their rights.

So there was that vast review. The situation had to be corrected. It was corrected when a Republican President came along by the name of Theodore Roosevelt. To be sure, there were acts on the books that antedated his time, such as the Sherman Act of 1890.

But Teddy Roosevelt gained himself a great reputation as a trust buster. He did not propose to compromise with big business when it resorted to evil and violent practices in order to make its case, and hang on, and deny to the workers benefits that very likely they might be entitled to have. Taft knew that and the entire history about guards and strike-breakers.

Theodore Roosevelt sensed the unrest and the need for action. I read some of his conversations with legislative leaders and leaders in the executive branch to the effect that they were becoming ugly, and that something had to be done.

But now time has gone by and they have been put in their place. But now we have two other gargantuan problems with which to deal. One is the growth in power, and particularly economic power, of labor unions. The other, of course, is the monumental size of government.

Parenthetically, I note that when I came to Congress more than 32 years ago, if I recall—and I have not refreshed myself on the figures—the entire civilian service force in government was only 567,000 people; that was before the New Deal took over. Before long it began to

climb. Today the number is not 567,000. It is in excess of 2½ million. When we are through with this problem, we shall have to do something about this gargantuan government problem as well.

Those are the basic problems that confronted one generation after another, and we shall have to deal with them finally.

When we passed the Taft-Hartley Act, it went to the White House. On June 20, 1947, that blessed soul from Missouri, who can use purple language when the occasion calls for it, vetoed it.

So what happened? What tickled me was this one sentence in the veto message, because Brother Harry, from the "show me" State of Missouri, in the veto message said, "It is a menace to successful democratic society."

That is a jewel. Perhaps somebody wrote it for him. I do not know. In any event we listened attentively to the veto message in the House of Representatives.

When we were through, what happened? The size of the vote tickled me. We overrode Brother Harry by a vote of 331 to 83. We did not think it was going to be a menace to society, not even the Great Society.

So the veto message came to the Senate, and Senators took a look. They examined it carefully. Then, what did they do on June 23? They overrode the veto. What was the vote? The vote was 68 to 25.

Through the constitutional device, which is one of the great balances in government, both branches of Congress overrode the Truman veto of the Taft-Hartley Act by monumental majorities, and so it became law.

Almost immediately an artful tag was put on it. It was called the Slave Labor Act. I remember how I was taken to task because of my vote; so I was in the slave labor category.

I am beginning to think that if this body ever repealed section 14(b) it would be an enslavement of another kind. Strangely enough, the labor organization leaders do not talk about it, but we know the weapon that will be given to them, and we know the atomic hole that will be plowed into the entire Federal-State system of government, as it came to us from our forefathers long ago.

Sometimes I become a little distressed over the fact that the 17th of September is not adequately observed in this country. That is the day that the Constitution makers finished their labors. That is the day the came from Constitution Hall. That is the day that Eleanor Powell, wife of the former mayor of Philadelphia, and the daughter of the mayor of Philadelphia, grabbed Benjamin Franklin and said, "Dr. Franklin, what have we got, a monarchy or a republic?"

He said, "A republic, if you can keep it."

That challenge comes cascading down the corridor of time, generation after generation. It must be met, because the virility and the perpetuity of a republic, which is a representative form of government where the fountainhead of our power is in the people, must be preserved.

As the styling of the column that I read into the RECORD a little while ago said, we the people are behind the retention of section 14(b), and the Harris poll, and the Gallup poll, and every other poll will indicate it and it is getting better.

We overrode Brother Truman by a monumental vote and thus the Taft-Hartley Act became law. That is the act that had section 14(b) in it when we passed it. It has been on the books for 18 years. It must stay there if we are going to do our duty to the people of this country.

There was an interesting matter inserted in the conference report that came along with the Taft-Hartley Act. Almost the same thing happened in the conference report on the Wagner Act. This is what the conference report of the House and Senate said:

> It was never the intent of the National Labor Relations Act to preempt the field and deprive States of their power to prevent compulsory unionism.

That was in the conference report: Never in the contemplation of Congress, in either the Wagner Act, or any other act.

And so, after all of these years, here is the issue again.

I was interested also in a statement made by the managers of the House on that bill. They said that section 14(b) was inserted "to make certain that there would be no question about this"—meaning compulsory unionism. If Senators are curious about the report, it is Report No. 510 in the 80th Congress. That is the documentation for it.

When the Taft-Hartley Act became law, 13 States, even then, prohibited the closed shop. Four States permitted a closed shop after the approval of the employees in an election. That was the status of those relations when the Taft-Hartley Act came along.

Then came the movement to repeal section 14(b). It began almost immediately after the Taft-Hartley Act became law. In 1956, in my hotel room in Chicago, I was visited by 10 distinguished union leaders. They were gentlemen. Their spokesman is a particular friend of mine. I believe that right now I could very well pay a little testimony to Joseph Keenan, of Chicago, because administration after administration has used his talents as a troubleshooter on many occasions.

Joe Keenan is wedded to the idea that section 14(b) should be repealed. When he comes to talk with me about it, he comes in good grace. His language is tolerant. It is most respectful. We treat each other as good friends who have a difference of conviction.

Joseph Keenan came to see me recently, and we had a most agreeable visit about old times. But I am talking about 1956, when he came and said, in effect, "EVERETT, your word is good with us. If you will tell us that you will vote for the repeal of 14(b), we can get behind you."

I said, "Joe, I am sorry; I have a deep conviction on this question, and I would be the last Member of the U.S. Senate to vote for the repeal of 14(b)."

This goes back a long way. I was running for reelection. Joe Keenan did not threaten me as the president of the Typographical Union has threatened Members of the 89th Congress with a letter in which he really threatens to go out and get us unless we do his bidding. I am referring to Mr. Elmer Brown.

I observed that our friend from Ohio, the distinguished Senator STEPHEN YOUNG, made quite a little statement about Mr. Brown's letter, because he wrote a reply, and in the first sentence he said, in effect, to Mr. Brown: "To me, you are the east end of a horse going west." So we can see that that is rather salty, rough language; but it has been published all over the country. Editorials have appeared about it. As I recall, it was placed in the CONGRESSIONAL RECORD. So with a proper regard for the rules of the Senate, I have mentioned what our distinguished compatriot on the other side of the aisle had to say on this subject.

So I continued my conversation with Mr. Keenan. I said, "I am sorry; I can give you nothing by way of encouragement—no letter, no word."

He said, "Your word is good."

I said, "No, Joe; I am sorry. I said, 'No.' "

When one becomes almost abrupt and emphatic, with election day looming immediately ahead of him in a State having more than 10 million people, he wonders a little about it.

I made my examination of conscience and conviction, and the answer was still "No." I came back to the Senate by the suffrage of the people of Illinois in the election of 1956. So I have been up against the business of section 14(b) for a long time. I have had no reason to forsake or to depart from the convictions I have expressed on all other occasions.

I shall not deal so much with the arguments that will be advanced on section 14(b). There will be many speakers, and each of them has his assignment. They will take all of the arguments and analyze every one of them.

I have a huge analysis in my office. Generally speaking, it relates to the old free-rider argument about jeopardizing union security, and about the strength of unions because it is necessary to depend upon the acceptance of union benefits. It is strange that the unions have to resort to compulsion. Where are their powers of persuasion? They are highly persuasive on other issues. Instead of using the law to force workers into an organization after they have been on a job for 30 days, what is the matter with presenting what they have to offer to the worker? Why can they not make a case by saying, "Look at what you will get if you join. Here are the benefits. This is what will accrue to you."

No, no, no. They want a weapon; and it is a sumptuary weapon, to say the least.

Then there is the old story about majority rule being an accepted principle, and that the minority should comply. Much will be said about that conviction, so far as it is involved in this instance.

The next argument is that since the union bargains for all employees, all should contribute to the cause of maintaining its activities. That argument will be carefully dissected as if it were a surgical operation, and the whole thing laid bare. The fallacy of that argument will be laid bare.

The next argument is that the right-to-work laws depress wages and stifle progress. I wonder if those who make that kind of statement have actually looked at the figures in the 19 right-to-work States with respect to the percentage of unemployment, with respect to wages, and with respect to many other things. A speech was made on the floor of the Senate a good many weeks ago in an attempt to rebut those figures; but I will tell Senators what the trouble was with that speech: Agricultural workers were included. We were talking about industry. That shows the fallacy of the argument made on the floor of the Senate.

What is the case against repeal? It is claimed that the right-to-work laws are unconstitutional. We can throw that argument overboard because the Supreme Court has passed upon it. The right-to-work laws carry out the intent of the Wagner Act, the Taft-Hartley Act, and those who prepared those acts and the reports. The very fact that Mr. Truman was overridden by such a majority with regard to section 14(b) in the Taft-Hartley Act ought to be persuasive enough in itself.

Mr. President, I make so bold as to say that if this body repeals section 14(b) we shall never retrieve it. America will become a kind of industrial battleground. Then, if we try to get this section back on the books, we shall discover every impediment that can be placed in the way and it will be an uphill slugging match if Congress makes the mistake of ever repealing section 14(b).

In my book probably the most basic case that could be made is the fact that it would be a rupturing of the Federal-State fabric which accounts for the greatness of this country. Our forefathers gave us the Constitution. They said in the Preamble, "We, the people, do ordain and establish this Constitution of the United States."

They did not say, "We, the Supreme Court." They did not say, "Some other executive agency." They said, "We, the people." That is the fountainhead of power.

What did they do? They expressly delegated certain powers to Congress. These powers are all spelled out. Incidentally, it is no accident that the first article in the Constitution deals with the creation of the legislative branch.

As President Monroe said, "Everything in Government stems from the powers that have been conferred upon the Congress—the legislative branch." And how right he was. Then, there would be whatever other powers existed, and then the residual clause. What was not delegated was reserved to "We, the people." That means the people back home, speaking through their representatives and speaking through their legislatures.

How easy it is to see this separation of sovereignty. The people in my State cannot coin money. They cannot set up a mint or a printing press and shuffle out nickels, dimes, quarters, and half dollars, or print dollar bills, $5 bills, or $100 bills. The power of coinage is an exclusive power. It is reserved and expressly given to Congress.

On the other hand, the Federal Government cannot tax the bonds that are issued by my State for the building of highways. That is a sovereign power of the States. We can look all through the book and find powers which belong to the States and powers which belong to the Central Government in Washington.

I am sure that my friend, the distinguished Senator from Wyoming [Mr. SIMPSON], when he served as Governor of his State, probably encountered that question innumerable times and knows full well what the story is. That point is fundamental with me.

Mr. President, the 19 States which have State laws on the books are designated as right-to-work States. Is there a greater right? Is there a more important right? Is there a more challenging right? Is there a more fundamental right than the right to make a living for one's self and for one's family without being compelled to join a labor organization?

I have had something to do with legislation in Congress. I may be so immodest as to say that I had a little something to do with the Civil Rights Act of 1964. It was pretty well written in my office. I had something to do with the Voting Rights Act, a good deal of which was written in my office also, and which has been on the books for the past 6 or 7 weeks.

What noise we made, what arguments we advanced, how emotional we became over this sacred right. What good is a right to vote if we do not have the right to work or cannot exercise that right?

If we want to put these things in proper focus and perspective, let us start at the top of the heap with that which has primary importance, and that is the right to vote.

Here is involved a right to work. Are we going to flout it? Are we going to say to the 19 States, and to the other States, "It is just too bad, but we are going to preempt this field and you can do nothing about it." What about the sovereignty of the States, and what about their responsibility over their own people?

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. ERVIN. Mr. President, I should like to ask the distinguished junior Senator from Illinois if he agrees with the Senator from North Carolina that the right to work is the greatest of all civil rights and should be recognized as such?

Mr. DIRKSEN. It is the right to survive, as a matter of fact.

Mr. ERVIN. Mr. President, does the Senator from Illinois agree with the North Carolina right-to-work law, which provides that the right to live includes the right to work?

Mr. DIRKSEN. Indeed so.

Mr. ERVIN. Mr. President, is it not true that labor unions are voluntary associations?

Mr. DIRKSEN. The Senator is correct.

Mr. ERVIN. Is not one of the essential ingredients of voluntary associations the fact that they depend upon persuasion to acquire members?

Mr. DIRKSEN. If somebody wants me to join the chamber of commerce in my town, he must come around and give me an argument as to why I should join the chamber of commerce. If somebody wants me to join a hospital association, he can come around and seek to persuade me—not compel me—to accept a Federal act, because they have a weapon that they can use to beat me over the head.

Mr. ERVIN. Is there anything in any of the State right-to-work laws, which this bill would nullify, which denies a labor union the same privileges which other voluntary associations have; that is, to acquire as many members as possible by voluntary persuasion?

Mr. DIRKSEN. There is no inhibition on them. All they have to do is to lay their case before a prospective member and say to him, "Joe, I can give you 10 reasons why you should join the union."

Then the organizer can seek to fortify it all with argument.

Mr. ERVIN. Do not the churches depend upon voluntary persuasion in order to add to their membership?

Mr. DIRKSEN. Yes. No one tried to compel me to join the church to which I belong. My mother took me in hand, when I was knee high, and hauled me off to Sunday school, even before I could talk. There was freedom of choice as I grew older. I could have quit my church. I could have joined another church. No one compelled me to retain my membership in my church, or in any other church.

Mr. ERVIN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from North Carolina?

Mr. DIRKSEN. I yield.

Mr. ERVIN. Is there anything unjust whatever in requiring labor unions to obtain their members in exactly the same way in which churches and other voluntary associations obtain their members?

Mr. DIRKSEN. Not at all. We wish to emphasize constantly the voluntary aspect of the matter, as distinguished from compulsion, because if they can have their wish, one can get a job, his prospective employer does not have to inquire whether he is a member of the union when he hires him, but if there is a union, at the end of 30 days he either joins, or the employer takes him off the payroll. He is done.

Mr. ERVIN. Does not the fifth amendment to the Constitution provide that the Federal Government shall not deprive any man of his life, liberty, or property without due process of law? And does not the 14th amendment provide that no State can deprive any person of life, liberty, or property without due process of law?

Mr. DIRKSEN. Yes. But Jefferson, even before that, recited those imperishable words in the Declaration of Independence, "Life, liberty, and the pursuit of happiness." That just about encompasses the whole thing.

Mr. ERVIN. Does not the Senator from Illinois agree with the Senator from North Carolina that the courts of the States and the Federal courts, in interpreting the provisions of the Federal and State Constitutions that no person shall be deprived of his liberty without due process of law, interpret that liberty as so protected to include the liberty to follow the ordinary occupations of life without the Government's permission?

Mr. DIRKSEN. Exactly.

Mr. ERVIN. And would not an act of Congress, which requires a person to obtain permission from the Federal Government, even to pursue one of the occupations of life, be unconstitutional, in that it would deny that man the liberty to follow an occupation of life in violation of those provisions of the Constitution?

Mr. DIRKSEN. Yes.

Mr. ERVIN. Therefore, does not the effort to repeal the State right-to-work laws amount to an effort to confer upon a union and an employer authority to do something which the Federal Government itself could not do, by an act of Congress?

Mr. DIRKSEN. Precisely.

Mr. ERVIN. I thank the Senator from Illinois.

Mr. DIRKSEN. I thank my friend from North Carolina.

Mr. President, I have here some very interesting data that I think should go into the RECORD.

The question has been raised, on occasion, about the attitude of our former very distinguished President, Dwight Eisenhower, as to how he felt about the repeal of this section. I read into the RECORD now a letter dated August 13, 1965, which he addressed to Mr. Raymond Pitcairn, a very close friend of Mr. Eisenhower, who lives at Glentouche, Shokan, N.Y.

Here is the letter:

AUGUST 13, 1965.

DEAR RAYMOND: As you know throughout my 8 years in the White House I opposed any effort to repeal section 14(b) of the Taft-Hartley Act. I emphatically believe that each State has an inherent right to determine whether or not unionism is or is not to be compulsory within its borders. I am against impinging further on the freedom of the individual; I believe that maximum personal liberty within an orderly society is an essential to a strong, prosperous and happy America. I believe this is a matter that should command the close attention of every American.

For my part, were I still in a position of responsibility I would take exactly the same position that I did during the period of my Presidency.

With warm personal regards,

That was from Dwight David Eisenhower, on the 16th of August 1965. I trust that letter will lay to rest once and for all any question as to the attitude of the former President of the United States when he was President, long after he was President, and presently.

Mr. HOLLAND. Mr. President, will the Senator from Illinois yield?

Mr. DIRKSEN. I yield.

Mr. HOLLAND. I just now noted on the ticker tape an item which I believe explains much of the public attitude which so strongly opposes, as shown by the polls, the repeal of section 14(b). It is an AP item from Washington, and is short. It reads as follows:

WASHINGTON.—Strikes in August idled 222,000 workers, the highest level since 1959, the Labor Department said tonight.

The August figure continued a 1965 trend of heavy strike activity, but the Department emphasized that the past few years have produced unusually few labor disputes.

"Strike idleness thus far in 1965 has amounted to 16.8 million man-days, compared with 11.2 million and 11.3 million for the same periods in 1964 and 1963," the Department said.

Man-days lost in August totaled 2.3 million.

I wonder if the Senator does not agree with me that the continuance of such disturbances in our economic life as those depicted in that report from the Department of Labor may be largely responsible for the public disquietude at any thought of the repeal of section 14(b).

Mr. DIRKSEN. Almost invariably that happens, and when it extends far enough, and they become fully aware of the labor and industrial unrest, we begin to receive sharp and immediate reaction from the public. I suppose such reaction will grow as time goes on, particularly if we preempt the power that the States now have under 14(b).

Mr. HOLLAND. Will the Senator yield further?

Mr. DIRKSEN. Yes.

Mr. HOLLAND. I wish to emphasize for the RECORD that the statement I have read does not come from a source prejudiced against labor. It does not come from the U.S. Chamber of Commerce. It does not come from the National Association of Manufacturers. It does not come from any industrial group. It comes, instead, from the Labor Department, which cannot be charged with being unsympathetic with the cause of organized labor.

Mr. DIRKSEN. Indeed not.

Mr. HOLLAND. I thank the Senator for yielding.

Mr. DIRKSEN. Mr. President, one of the most interesting letters that I have seen in the Voice of the People column in any newspaper I saw in the Chicago Daily News on August 12, 1965. It is a contribution made by a Mr. Paulinus Leonas. I have not the slightest idea who Mr. Leonas is. However, he writes well. This is the letter he wrote to that publication:

[From the Chicago (Ill.) Daily News, Aug. 12, 1965]

I have lived under Communist and Nazi occupations and I know only too well what it means not to have freedom. I have come to this land of liberty and opportunity and am worried when I see and recognize danger signals. There are some now, as our personal freedom is attacked by selfish unions.

We vitally need section 14(b) of the Taft-Hartley Act. We need more than just that—we need the general guarantee of the right to work.

Grown out of sacred desire to have full freedom, our Declaration of Independence most solemnly guarantees liberty to every American citizen. The undeniable right to work of every individual is embodied in our Constitution and our elected President and Congress have no right to take away this freedom without first changing the Constitution.

It is superfluous for single States to duplicate the guarantee of our national freedom. Only arrogant unions with their most unreasonable demands, taking advantage of our inert Federal Government, make it necessary for individual States to declare once again that men and women of this land are free.

With the last safeguards of section 14(b) removed, the unions, in their so-called dealings and bargainings with every and any employer, invariably and unfailingly will insist on closed-shop agreements, thus establishing a vast slave empire in America and gaining unbalanced power over the economy.

Union shops are against the vital interests of union members, too. Where there is no freedom of choice, the union leaders can be indifferent to the wishes of their members. Dues money extracted from the rank and file often is used to gain more wealth and power for the union bosses. Using intimidation, coercion, and excessive violence, unions keep their own members in slavery.

Good unions do not need compulsory unionism; bad unions do not deserve it.

Therefore, instead of trying to curtail our freedom by suggesting the repeal of section 14(b), Congress would do better to concentrate on ways and means to guarantee us a relief from unlimited and outrageous union abuses.

PAULINUS LEONAS.

CHICAGO.

Mr. President, that letter is from a man who has lived under a Communist government. He has also lived under a Nazi government. Now he lives under a free government. He knows the benefits of freedom. It therefore gives him great concern, so that regardless of his status or where he lives, he does not, for a moment, hesitate to go on the printed page of a large metropolitan newspaper and let the world know how he feels about this subject.

Mr. President, this is an item which I believe to be of interest because it contains several quotations from one Eric Sevareid, a noted columnist, who spent some time in Great Britain and recently returned to the United States.

I read as follows:

BRITAIN LOSES WITH LABOR BOSSES

Repeal of section 14(b) can be considered a step backward for the American economy. Columnist Eric Sevareid, writing in the Houston Chronicle, reports on life in merry old England where labor rules—which Wednesday's House action suggests more of for this country.

The British economy is sluggish. Labor leaders there, as they are here, regard the economy as a pie of set dimensions, Sevareid reports, and are busily engaged in trying to cut it into more pieces. Unions demand and get more power. Strikes are virtually an everyday occurrence.

He reveals: "200 atomic submarine fitters quit work over the question of whether they shall be allowed to make their tea from the boilers or must bring it in thermos flasks."

That is one for the cookbook:

Railroad engineers have effected "go slow" tactics to disrupt traffic. A dispute over

two painted doors closes down a Jaguar plant. An artist was commissioned to paint a mural for a hotel dining room—and the hotel union steward calls his men out because the artist has no union card.

I do not quite know how to comment on that. Think of an artist with talent, who can place an idea upon canvas or paper, painted in living color with the proper dimensions and perspective, which will glory the heart and edify the mind.

What does one using a camel's-hair brush and a palette over his thumb think about a situation like that? He has to have a union card in order to paint a decorative mural?

That is what is involved here—"30 days and you have a card, or you are out of a job." That is very important business to some people.

Mr. Sevareid goes on:

He finally is forced to join—

Mr. President, this is even better. Here is an artist commissioned to do a mural. Anyone who knows anything about painting knows the deftness and sense of touch and color which are so important in making a decorative mural.

What was the outcome of all this?

Mr. Sevareid goes on:

finally is forced to join the Sign Painters Union so the hotel can operate.

Mr. President, there are some things that make us laugh.

Mr. Sevareid continues:

Organized labor has become even more encrusted, bureaucratized, reactionary and spiritless. Its energies remain concentrated on getting more for less.

Then this comment:

The British labor leaders regard their economy as a fixed pie—so the British trail while Germany and France in Europe and Japan and the United States vault ahead. We gain because we have an economy that challenges the American people to draw ever more from its tremendous productive capacities.

Mr. President, there is more of Mr. Sevareid here, but I believe that what I have just read is suitable for my purpose.

I now turn to an editorial published in Life magazine dated May 14, 1965, under the title of "A Noncrisis He Should Skip," and I read as follows:

The smooth-sailing Johnson legislative program will hit very rough water if his labor message follows expected lines. These lines include a promise to ask Congress to repeal section 14(b) of the Taft-Hartley Act of 1947, the famous right-to-work clause. Taft-Hartley does not forbid the union shop enforced membership but section 14(b) permits any State to outlaw this kind of contract. Nineteen States now have such right-to-work laws on the books.

Labor leaders have been fighting these laws in State capitals for years with varying success. With Democrats ruling most legislators, and with no very spectacular labor scandals or turbulence troubling the public, right-to-work legislation has been defeated or repealed in three States within the past year. But the AFL–CIO, wants to take the issue out of State hands by repealing 14(b) and making the union shop legal everywhere.

If Johnson puts his back into it, he can probably get 14(b) repealed.

I question the editorial on that point, because the President may "put everything into it," but there is still some real independence in this body, and we have some steam left to put up a fight. I continue to read:

Labor has almost enough votes lined up now. But the opponents of repeal are last-ditch fighters; the issue is a supercharged one; and there will be blood all over the floor of Congress when the vote comes.

I hope there will not be any blood on the floor in this debate, and that the Senate will not become engaged in a blood bath. Perhaps this is a metaphoric expression. Perhaps it is merely a glory metaphor.

The editorial continues:

We think Johnson has many better uses for his political time and strength than this one. As a practical matter, right-to-work laws have had a negligible effect on labor's bargaining power and on the economy generally.

They are called right-to-wreck laws by some labor leaders who remember the bad old times when the open shop (or "American plan") was a euphemism for union busting, this cost a lot of members in the 1920's. But that fear is unreal today. Unionism has vastly more acceptance both in law and custom than it had 40 years ago. Unions have lost members in some right-to-work States but gained them in others, and the presence or absence of the law is never the real reason for either gain or loss.

Why then so much emotional heat on this issue? It's not the money or the power, it's the principle of the thing. On the union side, the principle is that all beneficiaries of a union-negotiated contract should pay union dues; "free riders" are parasites. On the nonunion side, the principle is that nobody should have to pay for the privilege of working; the less coercion the better. Every right-to-work argument soon reduces to these inflammatory and irreconcilable fundamentals. The more practical-minded businessmen and politicians would rather skip it; and a practical-minded President should want to skip it too.

Moreover, when it comes to principles the authors of 14(b) had hold of a better one. Why impose nationwide uniformity in an area where opinions differ as sharply as in this? One advantage of having 50 States is in having 50 laboratories of social change.

I have made that contention a thousand times. The city councils, the county boards, the State legislatures—those are the real laboratories of government, where there is experimentation and ultimately the prefection of an idea, and then perchance it begins to merit the attention of the national legislature.

I continue to read from the editorial:

The 19 open-shop experiments still going on are not discriminating against unions (that's illegal) or subverting any national ideal. They are simply maintaining a standard of noncoercion and voluntarism. That could some day become the basis for a healthier and stronger union system than the one we have now.

I thoroughly agree with the sentiment expressed in that editorial from Life magazine.

Here is an editorial from Fortune, dated June 1965. It has a slightly combative title—"Fourteen (b) or Fight." That sounds like the "Fifty-four forty or fight" slogan that was much in vogue in the country of the Senator who now sits next to me [Mr. SIMPSON] and beyond. So the expression "Fourteen (b) or Fight" brings it down to modern times.

I read:

With a stubbornness worthy of a better cause, American labor leaders seem bent on constricting, if not eliminating entirely, a right that we should suppose was fundamental in any good, let alone Great Society—the right, namely, of workers to join or not to join, to support or not to support, unions of their own choosing without fear of losing their jobs. That right is broadly protected by the Taft-Hartley Act of 1947, which bans the old "closed shop" as a matter of national policy, and under section 14(b) permits the individual States to outlaw many other forms of coercion and compulsory unionism. At present 19 States have right-to-work laws on their books. While they have not always been effective, they do constitute an important reinforcement to free employee choice.

But Big Labor has never seen the matter that way, and having fought State right-to-work laws in detail, it now wants to snuff them out entirely by amending Federal law. What's more, this effort seems to have a fair chance of succeeding.

Frankly, I do not think so.

I continue to read:

Repeal of section 14(b) of Taft-Hartley was pledged in the Democratic platform and in the President's state of the Union message. Labor regards this as a binding contract, and for weeks has been lining up support in Congress. The rash promise to rip open the labor law of the land has already harmed the consensus that Mr. Johnson has been so painfully building with the business community, and set rumbling a bitter debate. Here is an issue on which all citizens who are interested in preserving a free society should take a stand.

The basic issue involved concerns the principle of voluntarism to which the late, great Samuel Gompers paid explicit and eloquent tribute in his final address to the American Federation of Labor nearly a half century ago. "No lasting gain has ever come from compulsion," Gompers warned. "If we seek to force, we but tear apart that which, united, is invincible."

And that is still sound commonsense today.

Today American labor is not quite invincible but its powers have increased a thousandfold since Mr. Gompers spoke, partly as the result of vast changes in Federal laws protecting the right to organize and bargain collectively. Unhappily the more power unions have acquired the less they seem willing to sell their services on a voluntary basis. In the national elections of 1964 labor spent millions to defeat candidates who stood up for State right-to-work laws, and early this year it successfully revoked such a law in Indiana.

Parenthetically, in the State of Iowa, with a Democratic Governor, the legislature overrode him in an effort to bring about repeal of the right-to-work law in that State.

The arguments used against the principle of voluntarism are various and often conflicting. Union leaders contend that State right-to-work laws impede their organizational drives, but there is little trustworthy evidence on this point—

And that is "right as rain."

Union membership has gone up in Arizona, which has such a law—

The distinguished former Governor of that State now graces this body. He served as a great Governor of his State. He can tell Senators all about it. He is

on the team and he will come to bat in due course—

but has stagnated in Michigan, which has never adopted one. Again it is contended that wages are lower in right-to-work States than in non-right-to-work States, but this would seem to be due to regional differences in wage levels, which have little to do with union organization. Wages are, after all, a function of productivity and capital investment, and naturally they tend to be highest where such investment has been most intense.

The next paragraph bears this caption from the Fortune article. It is in the form of a question. It is entitled, "Whose Free Ride?"

WHOSE FREE RIDE?

The most popular and frequently used argument against State right-to-work laws and against section 14(b) of Taft-Hartley concerns the so-called free rider. If unions gain substantial benefits for workers, surely all the workers in a shop should be made to pay union dues and join in union activities. But this argument overlooks the fact that it is organized labor which took the first "free ride" by insisting that if only 51 percent of the members of a bargaining unit vote for a union then the union must represent all the workers involved whether they wish it or not. This provision of both the Wagner Act and the Taft-Hartley Act is the real key to union power in industrial affairs, and it is a tremendous power.

But the point is worth emphasizing in connection with the reference to a free ride. Who took the first free ride? That is quite important in my book:

The truth is that unions already have enough, and more than enough, special privileges, and that our whole effort should be to cut these privileges down rather than to enlarge them. We also believe that unions themselves would be better off to the degree that they become voluntary organizations and that they are big enough and mature enough to work in this direction. In this context the proposal to repeal section 14(b) of Taft-Hartley is a step in precisely the wrong direction. It is a bad proposal, an imprudent proposal, and in the end a foolish proposal—bound to stir up great domestic controversy when the President needs support for his foreign policy and other measures.

Coming from a well edited and published magazine like Fortune, whose editorials are reasoned and carefully read, it seems to me that that makes a powerful argument against action by the Senate in undertaking to repeal section 14(b).

On July 31, 1965, there appeared in Traffic World Weekly this editorial under the caption of "A Chance To Combat a Threat to Freedom." I read the editorial:

[Editorial]

A CHANCE TO COMBAT A THREAT TO FREEDOM

Atop the dome of the Capitol of the United States, the imposing building in which the makers of the Nation's laws assemble, stands a statue of Freedom—a bronze figure 19½ feet tall. We may have to change the name of that statue in the near future. We may have to forget about Freedom and, in so doing, redesignate the statue on the dome of the Capitol as Regimentation.

An ominous step toward erasure of one of the most important freedoms of American citizens was taken on July 28 by the House of Representatives in Congress when, by a rollcall vote of 221 to 203, it passed and sent to the Senate H.R. 77, a bill to repeal section 14(b) of the National Labor Relations (Taft-Hartley) Act. Under terms of that section the individual States are allowed to enact laws outlawing compulsory membership, in favor of voluntary membership, in labor unions by employees in a business or industry in which the workers are represented by one or more labor unions. Such State laws are often referred to as right-to-work laws and there are now 19 States that have such laws.

Soon the House-approved bill to repeal section 14(b) will come up for consideration in the Senate. It's our earnest hope, but one we entertain with trepidation, that enough Members of the Senate will let themselves be governed by concern for individual rights, rather than for labor union leaders' hunger for power (under the guise of desire for "union security"), to bring about defeat of the so-called right-to-work repealer. If the backers of the bill do muster enough votes in the Senate to bring about passage of the bill, it will be appropriate to drape in black the statue of Freedom on the Capitol Dome.

Why do we use this space in a transportation news magazine to blow off steam about a subject that isn't strictly in the transportation field and doesn't involve the railroad workers and airline workers, who are subject to the Railway Labor Act? Well, it seems to us that the threat of permanent establishment of compulsory unionism is a peril of sufficient magnitude to justify enlistment of Americans in transportation and in every other honorable endeavor in the fight against it, a fight to preserve the principle of freedom of choice for the individual.

One of the builders of the organized labor movement in the United States, Samuel Gompers, offered counsel that's just as good now as it was in his day, though today it's rejected by the labor czars because it doesn't happen to give support to their present aspirations. Said Mr. Gompers:

"I want to urge devotion to the fundamentals of human liberty, the principle of voluntarism. No lasting gain has ever come from compulsion. If we seek to force, we but tear apart that which, united, is invincible."

What's meant by "compulsory unionism"? The term means simply that if you are employed or seek employment in an establishment in which your craft or class of workers has, by a majority vote, chosen a particular union to represent it in collective bargaining negotiations with the management of the establishment, you must join that union in order to retain or obtain the job you are equipped to do. Even though the policies and personal conduct of the union chieftains may be totally repugnant to you, you have no alternative, unless you want to sacrifice your job or try to make a living some other way, but to apply for membership in the union and, when accepted, to pay the dues and assessments exacted by it.

Many proponents of the bill to repeal section 14(b) insist that the term right-to-work law as applied to a State law that forbids compulsory unionism is a misnomer. With that we cannot agree. Surely, a person in this country should have an inviolable right to work—a right unobstructed by a requirement of union membership in order to get and retain a job.

Editorial writers on hundreds of newspapers in this country, including some of the metropolitan papers traditionally concerned with the welfare of the wage earners who constitute a majority of their subscribers, have directed vigorous attacks in recent months and weeks against the proposal to repeal section 14(b). The Uniontown (Pa.) Herald, for example, says that retention of section 14(b) "can mean the difference between a free economy and total union domination destroying our individual freedom." The New York Times calls it "a callous oversimplification to suggest that no element of individual liberty is at stake and that the paramount right in the equation is that of management and labor to make whatever disposition of the workers they deem satisfactory."

To us, the basic issue that the House sidestepped and that the Senate must face in its consideration of the proposal to repeal section 14(b) was stated just about as clearly and briefly as it could be stated, in the course of the House debate on H.R. 77, by Representative GURNEY, Republican, of Florida, when he said:

"I do not believe this is a question of being for or against unions. I believe the action in the House today either will affirm the basic concept of individual liberty or, if we vote the other way, will strike it a grievous blow. That is the great issue before us."

A good point was made, in that same debate, by Representative GLENN ANDREWS, Republican, of Alabama, in his assertion that "the freedom to join or not to join a union has a very practical and desirable result—it keeps unions responsible."

We were glad to see the Transportation Association of American take a position opposing repeal of section 14(b) (Traffic World, June 26, p. 113). Vigorous opposition to such legislation should be recorded by all organizations of shippers and carriers and by all freedom-loving individuals and should be communicated to Members of the U.S. Senate in positive terms and without delay.

That sets out the issue very well. That editorial was published in Traffic World for July 31, 1965.

Mr. President, I have a large amount of material on my desk. I think I ought to vary it a little.

Mr. President, here is an editorial from Distribution Age. It is signed by Ronald G. Ray, the editor. It is dated July 1965. It is entitled "Just a Dog of Another Color." I read:

The "right to work" movement began in the early 1940's as an expression of public disapproval of the compulsory membership power being exercised by labor unions with the sanction of Federal labor law.

This power to force working men and women into unions through contracts containing compulsive membership clauses was a full swing of the pendulum from the old "yellow dog" contracts at the turn of the century. At that time, employers required employees to agree, as a condition of employment, that they would not join unions.

Mr. President, I interpolate to say that early in my remarks I referred to the Norris-La Guardia Act, which dealt with the use of Federal court injunctions and also with the so-called yellow dog contracts. The editor of Distribution Age mentions "yellow dog" contracts.

The "yellow dog" contracts were outlawed in 1932 by the Norris-La Guardia Act as an unconditional infringement on the individual liberty of working men and women.

There the act worked in reverse. An employee made a promise to his employer or his management that he would not join a union. The question then was, Was such a promise enforcible? The Norris-La Guardia Act took care of that in good style.

With the passage of the Taft-Hartley Act in 1947, provisions were incorporated in it to provide for right to work at the discretion of the States.

Congress thus recognized that the American workingman possesses an inherent freedom to be able to work—without fear of loss of his job for his failure to join a labor

union. Another Congress today is reconsidering that right and may be well on its way to washing it out of the act. By so doing, they will deal the workingman one of the lowest blows in history.

It is a conservative estimate that labor unions spent $100 million on the 1964 election, and is no secret that many Congressmen have already committed themselves to the unions even before the bill before them has had a fair hearing.

It is inconceivable that a nation built on liberty and dedicated to liberty should now seek to destroy an individual's right by stamping approval on compulsory unionism. We wrote in protest to members of the House of Representatives Education and Labor Committee and to members of the Senate Labor Public Welfare Committee.

We urge that you write your Congressman, immediately. This is the only way left to prevent unions from cashing in on careless political promises.

This is the honeymoon year for Congress, when unpopular bills can be passed with hope that they will be forgotten before the next election. Congress is your representative as well as Hoffa's and his kind, but you have to speak up now if you are to be heard. Do not procrastinate writing Congress—this bill is moving fast—it may even be approved while we are on press.

RONALD G. RAY,
Editor.

Thank goodness it has not. It will never be if we have anything to say about it. When I am asked about the justification for an extended discussion, I say that the people have to be informed, and it takes time to inform them. Stories have to be written and gotten out to the press. Of course, we will all be classified, and I know about where by slot is. I have known it for a long time. However, it has not bothered me. It has not interfered with my public service.

The explanation is that this is a way to get the story to the people and to see who is in our corner. How fundamental the issue really is.

I have a great many papers in my file. I also have some editorials.

What happened to my friend the junior Senator from Tennessee [Mr. BASS]? I have a package of Tennessee material here, and I do not see the Senator present. I shall read one or two items until he returns.

This editorial is from Memphis, Tenn. There is a great newspaper there called the Press-Scimitar. The name has a rounded sound. We know what a scimitar is. It is a curved sword. A scimitar can really give one a cut that will be felt.

The date of this editorial is July 24, 1964. The title of the editorial from the great Volunteer State of Tennessee is "Vote 'No' on 14(b) Repeal."

I read from the editorial:

At this writing, crucial House votes on repeal of the Taft-Hartley Act's section 14 (b) are scheduled for Monday and Tuesday.

This newspaper believes the proper vote is "no."

Repeal of section 14(b) would deprive the States of the power to decide for themselves whether they want so-called right-to-work laws within—

I am glad the Senator from Tennessee returned to the Chamber.

Mr. BASS. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

The PRESIDING OFFICER (Mr. MCGEE in the chair). The Senator from Tennessee is recognized.

Mr. BASS. What material does the Senator have?

Mr. DIRKSEN. Editorials from the State of Tennessee.

Mr. BASS. Are the editorials favorable to me?

Mr. DIRKSEN. I do not believe they are favorable to the Senator from Tennessee. However, I do not know how the Senator stands as yet. He has not informed me.

Mr. BASS. I am accustomed to both kinds of editorials.

Mr. DIRKSEN. Does the Senator from Tennessee admit that the Press-Scimitar is an outstanding newspaper?

Mr. BASS. It is an outstanding newspaper.

Mr. DIRKSEN. The editorial is under date of July 24, 1965. I have read the caption into the RECORD. The title is "Vote No on 14(b) Repeal."

The editorial reads:

The repeal of section 14(b) would deprive the States of the power to decide for themselves whether they want so-called right-to-work laws within their own borders. It would extend the principle of compulsory union membership to all 50 States, as a matter of national policy.

We do not believe any person anywhere should be forced to join a union—or any other organization—as a condition of holding his job.

And we certainly do believe, at the very minimum, that the right of States to decide this question for themselves should be preserved.

Mr. BASS. Mr. President, I say to my friend the junior Senator from Illinois that the Memphis Press-Scimitar is one of the outstanding newspapers serving the great city of Memphis. I respect the editorial opinion of the Memphis Press-Scimitar very much. They editorially endorsed me in the last election, and their action was rather influential on the result.

Mr. DIRKSEN. Then the Senator will pay attention to their editorial opinion.

Mr. BASS. Yes; but they would not expect me to agree with all their editorial views. I respect them all, but at times I disagree.

Mr. DIRKSEN. I have many editorials.

Mr. BASS. Are the editorials all from Tennessee?

Mr. DIRKSEN. They are all from Tennessee.

Mr. BASS. All from Tennessee?

Mr. DIRKSEN. Yes, indeed.

Mr. BASS. I believe that the Senator does a better job of clipping papers than I do. Perhaps I had better come to his office.

Mr. DIRKSEN. That is what keeps me so busy and holds my weight down.

The Senator will agree that the Commercial Appeal of Memphis is a great newspaper.

Mr. BASS. There is no doubt about that. However, it is not so generous in its remarks concerning me as are the other newspapers. This was particularly true in my primary last year. The two Memphis newspapers are owned by the same company. They are both Scripps-Howard newspapers, a very outstanding press.

Mr. DIRKSEN. Their daily circulation is 216,858.

Mr. BASS. The Senator is correct. They have a wide circulation in Mississippi, Alabama, Arkansas, and Tennessee.

Mr. DIRKSEN. This editorial is from the Commercial Appeal. The Senator from Tennessee can relax.

Mr. BASS. Is the editorial longer than the other one?

Mr. DIRKSEN. It is. It will take me a great while to go over this one.

Mr. BASS. The Senator can insert the editorial in the RECORD.

Mr. DIRKSEN. I could, but the Senator does not know how much fun I have. Besides, I must be sure that this gets to where it belongs in the country.

The Senator knows that, as one shepherd said to another, "To inform the minds of the people and to abide by their judgment is a mark of high public service."

Mr. BASS. The Senator is correct. However, he also went on to say that an informed and educated public opinion must be the most compelling force in any democracy.

Mr. DIRKSEN. That is what I am trying to do. I am glad to have support.

Mr. BASS. Mr. President, I hope that this is one issue on which the people can become informed. I hope that they will know the technical aspects—aside from the emotionalism involved—and what the repeal of 14(b) would mean as far as the American worker and businessman are concerned.

The largest industrialists in my State are for the repeal of 14(b). As a matter of fact, the chairman of the board of the largest industrial concern seated in Tennessee, operating under a charter from the State of Tennessee, gave a luncheon for me, immediately after my election to the Senate last year, to acquaint me with some of his business operations with which I had been unfamiliar prior to that time.

This man said to me, "I suspect that next year there will be a vote on the repeal of 14(b). If this comes about I want you to vote to repeal section 14(b) of the Taft-Hartley Act. I do not need a union in any plant that I have." This man has plants all over the United States. He is one of the biggest industrialists of the country.

He went on to say: "I do not need a labor union to represent any employees in any plant I have. However, if I do have a union in any plant, I want every person working there to belong to the union so that one union steward can represent all the employees. I do not have to have a separate set of standards or a separate industrial relations committee to take care of employees who are not affiliated with a union."

Of course, views differ. I do not know whether they have the so-called open shop, union shop, or so-called freedom of choice in the State of Illinois.

Mr. DIRKSEN. We have no right-to-work law now.

Mr. BASS. Illinois has no right-to-work law now. It is a great industrial State, and has probably as large a labor army as any other place in the country.

The great State of Illinois, and particularly Chicago, has furnished a haven for many Tennesseans. When we did not have the jobs there, I know that many Tennesseans left and went to Illinois, to the great industrial centers—Cairo, East St. Louis, Chicago, and many other places—to find jobs, and I understand that they are completely happy. I am sorry that we have not been able to furnish the type of industrial climate to take care of all the qualified people in our State.

But the so-called right-to-work law has not enhanced our situation at all, because we have been less than competitive with the great industrial States such as the Senator so ably represents.

What I am trying to say is, in discussion of the repeal of 14(b), that I should hope that we would get down to the technical issue involved as to what repeal would do in labor-management relations, instead of saying that this is a power grab, or that sort of thing—giving the unions more power or forcing workmen to work against their will. I hope we shall say exactly—technically—what it would do, how it would change the basic law, and what the people would do.

We hear it said, "The labor unions are influencing legislation." Did the minority leader know—and he is much more conversant with the situation than I, and is informed about the laws which Congress has passed since 1935, because he has been here during most of that period of time—that this is the first single piece of legislation dealing with the internal affairs of organized labor, which could be considered pro-labor legislation, that has passed the Congress of the United States, or one body thereof, since the Wagner Act in 1935?

In the meantime, we have passed several pieces of restrictive legislation dealing with the internal affairs of organized labor. So, taking the emotionalism away from the issue, I should like to hear my friend—and I respect his judgment; I have admired him since I was a little child——

Mr. DIRKSEN. Oh, no.

Mr. BASS. Oh, indeed. He does such a great and eloquent job in explaining exactly what all of the ramifications are.

So before he continues today with reading all these important editorials—and I am very sensitive about the editorial comment in my own State——

Mr. DIRKSEN. I thought the Senator would be.

Mr. BASS. I appreciate the fact that the minority leader has brought them to the attention of the Senate, and particularly to the attention of the junior Senator from Tennessee, but I should like to have him explain in his very eloquent terms the technical changes which would be brought about in the 19 States that will be affected by this important legislation.

I did not mean to take so much of the Senator's time, because I know it is valuable.

Mr. DIRKSEN. My time is free.

Mr. BASS. I appreciate the Senator's courtesy.

Mr. DIRKSEN. The Senator has told us all about the giant corporate president, with interests all over the country. Will he now tell us about the little companies in Tennessee, with 100 people, 200 people, or 500 people?

General Motors can hire enough lawyers to fill this room to protect their interests, and so can Henry Ford, and so can the Viscose Co., in the Senator's State?

Mr. BASS. Viscose?

Mr. DIRKSEN. They make fibers. I have seen a plant down there somewhere.

But what about all the small companies which actually employ the great bulk of the work force of 79 million people in this country, which cannot afford to fight, which do not have a group of high-powered legal counselors sitting at their elbows? What about them?

Mr. BASS. What must they fight?

Mr. DIRKSEN. What does the Senator think?

Mr. BASS. I do not know. What are they fighting?

Mr. DIRKSEN. The Senator has not been keeping up to date. He has not been reading the Tennessee newspapers. I have to read for him.

Mr. BASS. I mean, are they fighting the editorials, or the newspapers, or what are they fighting? Let us talk about what they are fighting.

Mr. DIRKSEN. The pending issue, 14(b).

Mr. BASS. I mean what are they having to fight?

Mr. DIRKSEN. To keep it in the act.

Mr. BASS. Well, how does it help them? That is what I want to know, how does it help them?

Mr. DIRKSEN. Can the Senator tell us how it is going to harm them?

Mr. BASS. I might say if I were an industrialist, I should feel the same way as the president of that giant corporation we talked about. As to the other smaller concerns, I find that the ones who have unions already representing their employees are not nearly as disturbed as those who say, "I do not want a union, period."

I believe, truthfully—and I have made quite a study of the matter——

Mr. DIRKSEN. Oh, I am sure the Senator has.

Mr. BASS. I was not even committed to vote for it until 2 or 3 months ago, and I made a very thorough study. I read thousands of newspapers, too.

Mr. DIRKSEN. Well, it will not hurt to hear them read again.

Mr. BASS. I did not get here for no reason at all. I want the Senator to know that my mother did not name her dumb child Ross. I have been briefing myself. But what I am questioning is, what are the technical things the Senator is talking about that the little people have to fight?

Mr. DIRKSEN. Does the Senator mean the little employers?

Mr. BASS. Yes. What do they have to fight?

Mr. DIRKSEN. The philosophy of using a card system of checkoffs without an election by secret ballot, and then saying to the employee, "Join the union, or in 30 days you are out of a job."

Mr. BASS. Would repeal change that?

Mr. DIRKSEN. Certainly it would change it.

Mr. BASS. How would it change it? It would not change the organizational procedures.

Mr. DIRKSEN. Why does the Senator think the reservation was placed in the act 18 years ago? "Go ahead and do it, provided a State law does not stop you from a compulsory union contract, where you not only can compel a worker to forgo his job if he does not join in 30 days, but can continue your present practices, to have a steward run in with cards without even knowing that they are accredited members of the union, with no proof made of the fact."

Mr. BASS. But it would not change the organizational policies one iota.

Mr. DIRKSEN. It will.

Mr. BASS. On the other hand, the Senator and I know—and I have seen it happen—that people would vote to have a union represent them, with no intention of joining the union. They say, "I am not going to pay in dues, but I will vote to have the union."

In my opinion, it is going to be harder to organize an unorganized plant, particularly a small factory, with the repeal of 14(b), than it would be with this provision on the statute books. Everyone who votes for a union, after the repeal of 14(b), is going to know that if the union comes into the shop, he will have to pay dues to that union. Those who now vote for the unions saying, "I want the benefits, I want a better salary, I want a better vacation, I want sick leave and insurance, but I don't want to have to pay the bill, I don't want to have to pay that $48 or $60 a year," are now going to know that if they vote for it, they will have to pay the dues, and they will think a couple of times, because when they know, "If I vote for it, it will cost me x dollars a year," they are going to make a deliberate decision, instead of marking the X over here and saying, "It does not make any difference, because I am not going to join anyway, but I will let somebody else pay for getting me the benefits."

So I disagree with the Senator when he says this proposal will change the policy in favor of the union side.

Mr. DIRKSEN. Why does the Senator want to repeal it, then?

Mr. BASS. I will tell the Senator why, in very simple terms: "If you ride the buggy, you ought to feed the old mare."

Mr. DIRKSEN. Who got the first free ride under the Wagner Act and previous acts? Who got the first free ride?

Mr. BASS. But there has not been one since then.

Mr. DIRKSEN. There should not have been any. That was a mass free ride.

Mr. BASS. In 30 years we hear about the great pressures of the unions, forcing Congress to do it. It has been 30 long years. They abide by majority rule.

My farmers in Tennessee are in the same position. I know some of them who

say, "I wish to raise tobacco," or "I want to raise more cotton," or "I would like to raise more wheat."

They cannot do it. There is nothing wrong with that practice. This is the way we regulate the farm industry, because the farmers have voted to accept the quota system. Under it a person can raise only so much tobacco and market it in a free market, or raise only so much cotton.

It does not make any difference how many children a farmer may have that he wishes to send to school.

This involves a democratic, American principle, the way of doing things in America.

There is nothing wrong with a group of employees, whether they be employees of the press or employees of a farmer or employees of an industrial plant, sitting down and voting for what they believe and that it should be done in a certain way. We believe that that is the way we should work together in this country, to sit side by side. This is the democratic way of doing it.

I have not known of a labor union to negotiate a contract only for its members of an industrial plant in which they work. When they negotiate a contract for the benefit of all the workers, for salaries, for medical benefits, for vacations, and so forth—they include everyone in the plant.

They are not selfish enough to say, "We wish only the 52 percent of the 60 percent here. You are getting a raise in salary, or better benefits." They represent them all. What about freeloaders, the boys who wish a free taxi ride? They will say, "I will tell you what, my neighbor. You operate your machine over there, and I will operate my machine over here. I will get as much out of it as you do, but I am going to save those union dues. I will be able to throw an extra party. My wife will have an extra dress. I can make a down payment on my car which you cannot make because you do not have enough money, but I am not sharing the responsibility of going down and paying dues."

There is a certain percentage of citizens in my State, I presume, who do not believe that I am a good Senator but, under majority rule, I have received a majority of the votes and I represent them in the Senate. This is true throughout democracy, in every walk of life. I was a little bit remiss in not telling the whole story about the farmers. They are a little better than the workers. They are required to vote cloture in most referendums. They have to vote 66⅔ percent approval or disapproval.

Mr. DIRKSEN. The Senator was never so wrong in his life in trying to draw that analogy.

Why?

I can grow all the tobacco I can get into the ground, but that is not the problem.

Mr. BASS. But the Senator will not derive any profit from it.

Mr. DIRKSEN. Exactly.

Mr. BASS. If one works in a factory he wishes to make a salary, or he will not work there.

Mr. DIRKSEN. Who says I cannot get a subsidy or a tobacco support from the Federal Government? That is what the Senator from Tennessee wishes to perpetuate.

Mr. BASS. Only with the approval of the farmers.

Mr. DIRKSEN. Certainly.

Mr. BASS. The Federal Government is not going to say to anyone that he must join a union. No, sir. Not under the procedures of the union, as I have seen it. Only if 50 percent—a majority—of the voters wish to join the union.

Mr. DIRKSEN. One has to.

Mr. BASS. No, no. Only if employer and employee agree to it. The employer and the representative of the employees have to sit down and negotiate a contract, which must be approved by 50 percent of the workers. The Federal Government is not going to tell anyone that he must join a union.

Mr. DIRKSEN. Let us not get away from the subject of tobacco.

Mr. BASS. Let us talk about tobacco.

Mr. DIRKSEN. I can grow all the tobacco over as much of an area as I wish. However, in the enactment of laws, we say, you are going to knuckle down and be a good boy, because no matter how much tobacco you grow you are going to have to get a price support——

Mr. BASS. Only if our neighbors tell us to do so.

Mr. DIRKSEN. Unless we accept a limited quota on our tobacco.

Mr. BASS. Only if the rest of the farmers, or neighbors, tell us this. Our neighbors must approve. The Federal Government has never said, yet, that we could not raise tobacco. It has said only that if our fellow workers, neighbors, or co-farmers say that we cannot raise it without penalty, we cannot do so, but there is no law passed by Congress, as I have said, that prevents farmers from raising tobacco. The Federal Government says only that if we wish to have a program——

Mr. DIRKSEN. Exactly.

Mr. BASS. With a Federal umbrella——

Mr. DIRKSEN. Not even an umbrella. Just access to a market.

Mr. BASS. But with the approval of the majority of two-thirds of our neighbors, the people of Tennessee. It is the same way in labor unions; it must be negotiated between employer and employee. It must be approved by a vote of 50 percent of those working in the plant. Am I correct?

Mr. DIRKSEN. The Senator is as wrong as he can be.

Let me say to my friend the Senator from Tennessee that he is getting back to the age-old argument rife in this country back in the days when a man from Minnesota named Andrew J. Volstead was active.

Mr. BASS. I have heard of him.

Mr. DIRKSEN. The Senator has heard of him?

Mr. BASS. Yes.

Mr. DIRKSEN. The Senator has also heard of the Volstead Act?

Mr. BASS. Yes.

Mr. DIRKSEN. His associates and those who supported him evidently came to the conclusion that wine, to quote Proverbs, chapter 23: "Biteth like a serpent, and stingeth like an adder."

Accordingly, they decided that we should not drink wine, that we should not drink any kind of hard liquor. Near-beer, perhaps, although whoever invented near-beer was——

Mr. BASS. He was an alcoholic.

Mr. DIRKSEN. What happened? Suppose I had been one of those who said it was wrong to drink and, therefore, it was wrong for the Senator from Tennessee to take a drink? "I know what I am going to do; I am going to stop him, I do not care what his convictions may be." Before we knew it, here was the 18th amendment to the Constitution of the United States with respect to the manufacture, the distribution, the sale, and——

Mr. BASS. Consumption.

Mr. DIRKSEN. Consumption of spirits and liquors. What was wrong with it? Our neighbor is going to tell us how to comport ourselves. That is the argument the Senator from Tennessee is now making. That is the reason the 18th amendment was voted out of the Constitution of the United States and probably had more to do——

Mr. BASS. Because it did not have public support.

Mr. DIRKSEN. That probably had more to do with the election of Franklin Delano Roosevelt than anything I know of. No; it was the business of compulsion upon our neighbor. That is what we have in section 14(b). Take it out and read it. It is in print. Then see what happens.

Mr. BASS. What is happening to those 31 States?

Mr. DIRKSEN. Oddly enough, the 31 States, in terms of employment, in terms of wages, are falling behind the other 19 States which have right-to-work laws. I will place all those figures in the RECORD after a while.

Mr. BASS. Does the Senator mean to tell me that the average industrial worker in Illinois makes less money than the average industrial worker in Tennessee?

Mr. DIRKSEN. I have the figures for the whole country.

Mr. BASS. I am talking about Tennessee versus Illinois. Illinois does not have a right-to-work law, and we have.

Mr. DIRKSEN. Yes.

Mr. BASS. Does the Senator mean to tell me that the average wage of the industrial worker in the State of Illinois is less than that in Tennessee?

Mr. DIRKSEN. I mean by average that——

Mr. BASS. No, no. The Senator is in error.

Mr. DIRKSEN. Well——

Mr. BASS. The Senator is wrong. I have those statistics.

Mr. DIRKSEN. Then put those figures in the RECORD. The average industrial wage in the State of Illinois is quite a bit above that of the State of Tennessee. I will not be guessing at it. We have the figures in the whole pile. Those figures are here. They will be placed in

the RECORD before we are through with this discussion.

Mr. BASS. All right.

Mr. DIRKSEN. Yes.

Mr. BASS. All right.

Mr. DIRKSEN. There will be no guesswork.

Mr. BASS. Yes. Let us talk about the technical effects of organization——

Mr. DIRKSEN. Let the Senator from Tennessee talk about technical effects. I do not wish to change the law. The Senator does.

Mr. BASS. Let me say that it was not my original idea.

Mr. DIRKSEN. No.

Mr. BASS. It was not my original idea, I should like the Senator to understand. However, when we get into this great body, as the Senator who preceded me by many years knows, eventually we have to take sides, and there is nothing personal involved in it when we do take sides. I have taken the opposite side from the distinguished Senator from Illinois on this particular issue. Regardless of the technical effects, I know that the Senator is well prepared and that he is going to read all these editorials, plus those from Tennessee. I have read most of them already, so if I do not stay to listen to all of them, I hope the Senator from Illinois will pardon me.

Mr. DIRKSEN. I would rather have the Senator go over to that little place and pray for his own well-being and further consideration of his outlook on life.

Mr. BASS. I have done some of that already because I was reared in a home where prayer came first. My father was a member of the clergy. Therefore, I have always prayed, not only for my own welfare but, more importantly, for the welfare of all men, especially my country.

Mr. DIRKSEN. Yes.

Mr. BASS. The welfare of all the people involved in this issue, as well. Also, in the 31 States, as well as in the 19 other States. I believe that the labor-management relations of the entire Nation will best be served if we work with one labor law instead of 50 different labor laws which will choose the union membership of various industrial employees across the country.

Mr. DIRKSEN. Yes; then the Senator would put them in a straightjacket by national law. But I have a great regard for what is in this book which I hold in my hand, the Senate Manual:

We the people of the United States—

For a variety of purposes—

Mr. BASS—

In order to form a more perfect union——

Mr. DIRKSEN. Yes. But I want to give the right emphasis to the words: "and secure the blessings of liberty"——

Mr. BASS—

To ourselves——

Mr. DIRKSEN—

And our posterity——

Mr. BASS—

And our posterity.

Mr. DIRKSEN. That is the issue here—not to make a man grovel under a union dictator, so that the employer, at the end of 30 days, has to say, "You are off the payroll. You did not join the union." That involves the right to work, the freedom to work. And after all the noise and detonations in this Chamber about the right to vote, that right cannot compare with the right to work, because inherent in it is the right of survival.

Mr. BASS. Even the birds are allowed the choice of a nest, but once the eggs are laid they stay with them until the brood is hatched; and the American worker is never led into a box or into a factory where he has to work. He has the free right of working there or of seeking employment elsewhere. He does not have to work in a given plant. He does not have to pay homage to a labor union.

I believe under the act being proposed here, if one has some kind of conscientious beliefs, he does not have to belong to a union. The only thing he is asked to do is make a contribution to a charity. But when a man works next to a man, he is asked to make a sacrifice commensurate with the sacrifice being made by the other people receiving the same benefits of employment in that industrial plant.

There is nothing wrong with fairness, and there is nothing unfair about saying to a man, "If you are represented and receive the benefits of a negotiated contract between the employer and employees—and the workers have agreed to that—you are getting better wages, better working conditions, and you should pay for those benefits just as the rest of us do."

Is there anything unfair about that?

Mr. DIRKSEN. Yes.

Mr. BASS. What? Explain it to me.

Mr. DIRKSEN. It can be summed up in one sentence: What has happened to his freedom?

Mr. BASS. His freedom?

Mr. DIRKSEN. His freedom of choice.

Mr. BASS. He could have gone somewhere else to get a job. He did not have to go where there was a labor union. He could have gone on the farm. He could have gone to work for a religious organization. He could have gone to work for the Federal Government. How many million people are working for the Federal Government?

Mr. DIRKSEN. Two and a half million.

Mr. BASS. Two and a half million. He could have joined the Army. There are many sources of employment. He does not necessarily have to go to a company where there is a union organization, voted for legitimately, under the rules and regulations of the governing body, which provide how it shall be done. He knows before he goes into such a company that the employees are represented by a labor union. Then he cries, "My rights have been denied me," when he is told he must join that labor union. The man next to him says: "Why are you better than I am? Why do you discriminate against me, because I am paying dues and you are not? You say you do not have to pay dues because it might infringe on some of your basic rights."

In the same way, someone might say, "I do not believe in war. I do not want my money to be used to pay for a war," and argue that he should not have to pay taxes because his rights are being taken away.

Mr. DIRKSEN. No, that would not be so, for the very good reason that we are dealing with a Government instrumentality.

I am talking about voluntary organizations. They have no Government standing. They are still voluntary organizations. They are still private. They are not a part of the Government establishment, and one who belongs does not belong to a Government organization. The Senator referred to a man in the military service. That is an incident of his duties of citizenship and the responsibility he owes to his country, not to a private organization. We are talking about private organizations, unless the Senator is trying to place a union organization in the category of a Government entity. If he does, God save the mark.

Mr. BASS. I do not think it could be said that the stock exchange is a Government entity, or that a bank is a Government entity; yet the Securities and Exchange Commission can say, "If you are going to sell stock, it must be done in such and such a way." The exchange may not be a Government entity, but it cannot sell stock unless it consents to Government regulation.

The Government is a unit of service, not necessarily one of regimentation, and it performs a service to everything it regiments. That is a basic concept of law.

We must maintain internal protection if we are to maintain the standard of living that we have in this country. We have built up the greatest standard of living on the face of the earth. In my opinion, it has been built, not because of objections to, but with the substantial efforts and cooperation of the great labor unions in obtaining better working conditions and wages, and stopping sweat shops, so the working people can own their own homes, own automobiles, own television sets, and send their youngsters to the same type of school that the Senator from Illinois and I went to. I had problems earlier, but those problems have been solved. I worked for 15 cents an hour in a muck pit for a phosphate company. When that wage became 25 cents an hour, I thought I was a rich man. I have seen people working in factories and living in hovels called millhouses. Has the Senator ever seen a millhouse?

Mr. DIRKSEN. I have. I can remember a time when I was working day and night, 13 hours on the night shift, and 11 hours on the day shift, and for that——

Mr. BASS. Is the Senator not glad that the man who succeeded him does not have to do that today?

Mr. DIRKSEN. For that I received the munificent sum of $50 a month.

Mr. BASS. I believe these men—who are called by some the labor men or labor leaders or the big powerful labor men—performed a great service.

I am glad I do not have to drive along the road and see millhouses, row upon

row, where people used to live, for which they were charged $5 a month, when those houses had big holes in the sides of them. I have seen them. So the labor leaders have done some good things for this country. I do not believe it is unreasonable for a man representing a group of people working in a factory to say, "If you get the benefits of our efforts, you ought to pay for them."

I say to the Senator that it was not my intention to open my mouth during the consideration of this legislation, because, as I said previously, it was not my original idea; but now that I have, I am glad I have, because it has brought to mind quite a few thoughts about the great things these people have done in that area, in the way of contributing to the welfare of our Nation and building up our standard of living.

I believe that the repeal of section 14(b) would not change the technical aspect of union labor-management enough so that 2 years after it is passed neither the Senator nor I would be able to tell the difference; nor will these little plants which the Senator mentions.

Mr. DIRKSEN. What does all that the Senator is saying have to do with freedom to work? I am talking about——

Mr. BASS. This does not deny anybody freedom to work. That is an absolute misnomer.

Mr. DIRKSEN. As America is constituted today, a worker gets a job in a shop. Perhaps that shop is not unionized and he works for a time. He raises a family and acquires a home—so-called saddled with a home—with a big mortgage on it. He has two youngsters in school. One of the organizers comes along and by real effort, persuasion, or otherwise, they finally get enough cards, or enough votes to become the bargaining entity for the union in that shop. There is needed only one card more than 50 percent.

So what happens? Everybody in that shop, whether he likes it or not, has to join that union at the end of 30 days because it is not going to be in his interest to quit. The employer must fire him.

Mr. BASS. He does not have to attend a single union meeting. He does not have to carry a card in his pocket. He does not have to put a certificate on the wall at home saying he is a member, or anything else.

He has to do one simple thing: He must pay the same dues in the same amount as the man sitting at the machine next to him who is putting out just as he is, and receiving the same pay.

If there is anything wrong with paying the same amount, I do not know what it is.

It is said that if one wishes to listen to the music, he must pay the fiddler. There is nothing wrong with that.

Mr. DIRKSEN. How sweet and naive. But let us get back to the worker.

Mr. BASS. Very well.

Mr. DIRKSEN. He is off the roll.

Mr. BASS. Oh, no. All he has to do is pay his dues.

Mr. DIRKSEN. Pay his dues.

Mr. BASS. Oh, yes. One has to pay. Is he better than the other man?

Mr. DIRKSEN. The Senator is compelling him to pay dues, and perhaps even political items to an organization to which he does not want to belong.

Mr. BASS. Now we hit the note; we ring the bill.

Mr. DIRKSEN. Excuse me?

Mr. BASS. That some of it might go for political purposes.

Mr. DIRKSEN. I do not care a hoot about that. I am thinking only of the overriding issue.

Mr. BASS. I wondered how long it was going to be before we punched the key that rang the bell.

Mr. DIRKSEN. I never——

Mr. BASS. This is the razor blade in the soup, is it not?

Mr. DIRKSEN. What a silly argument that is.

Mr. BASS. Let us get back to this argument. It is silly, but dues cannot be collected for political purposes under the Landrum-Griffin Act. Does the Senator recall that provision?

Mr. DIRKSEN. Yes. Blow me down.

Has the Senator seen a union card? Has the Senator seen the line in red ink, and the——

Mr. BASS. Voluntary contributions?

Mr. DIRKSEN. In type so small one need trifocals to read it.

Mr. BASS. I thought we would finally get to this note.

Mr. DIRKSEN. The Senator is not going to get out with just that note. Let us go back to this fellow. He is off the job.

Mr. BASS. Oh, he is not off the job unless he is going to be so stubborn that he is not going to pay, like his fellow workers.

Mr. DIRKSEN. Oh, he is stubborn. "My soul is my own. My conscience is my own. My skill is my own. I am not going to pay a tribute to an organization. I will not do it." What happens when he does not pay it? Thirty days elapse. Yes or no?

Mr. BASS. Would the Senator wish that I draw an analogy? What about group insurance?

Mr. DIRKSEN. Why intrude with the insurance?

Mr. BASS. What about a business in which the boss signs up for a group policy and says, "All the employees in my organization will have group insurance. We are going to deduct it from wages."

This old boy comes in and says, "I do not want this group insurance because my brother-in-law writes insurance and gets a commission."

The employer says, "If you do not like the insurance, do not work here."

What happens?

Mr. DIRKSEN. The Senator is dealing with voluntary insurance.

Mr. BASS. These are realities, though.

Mr. DIRKSEN. Realities?

Mr. BASS. He has to pay or lose his job.

Mr. DIRKSEN. That is not what we are looking for here.

There is an attempt to put the shoulder of the Government behind unions to compel the worker to join and pay dues.

Mr. BASS. No, no. All we are doing is limiting the restriction that is placed upon the employer, and the employee, which provides that he cannot, under any circumstances, regardless of how badly it is wished, negotiate for a contract which provides that the employees would belong to the union. This is a restriction against management and labor; not labor, against the right to work. It is a restriction against the employer and the employee that says that such a clause in a contract cannot be provided.

Mr. DIRKSEN. How wrong can one be?

Mr. BASS. That is the law in my State.

Mr. DIRKSEN. Let us take a look at it in light of the explanation of the Senator.

Mr. BASS. Very well.

Mr. DIRKSEN. Here they are. Some of them are organized and they like it. Some will not care.

An independent merchant says, "I will not forfeit my freedom by paying dues and joining a union, and taking dictation from the union."

At the end of 30 days what is left of the employee? Under this agreement, the employer has to dismiss him unless the State law says "No."

What the Senator is trying to do is vitiate the State laws by an across-the-board repealer, so that 19 States will not have anything more to say about it. Perhaps the Senator likes that in Tennessee. I do not like it.

Mr. BASS. Does the Senator know that if he owned a factory in Tennessee—the Dirksen Knitting Mills, for instance—that sounds pretty good, does it not?

Mr. DIRKSEN. Yes.

Mr. BASS. If the Senator wished the union steward to take care of all his problems there, he could not. Under State law, in negotiating for a union contract which provides that eventually all of the Senator's employees would have to join the union, he would be prohibited from doing it, and would not have the freedom of choice as an employer with respect to signing that kind of contract. The Senator could do it in his own State of Illinois, however. Are not my people entitled to the same right? Why should they be denied that right?

Mr. DIRKSEN. They can have the same thing in Illinois if they want it. The law was put on the books, not by Congress, not by a Federal instrumentality, but by a State legislature.

What the Senator would do in taking away 14(b) is to say, in effect, "We do not care what you want to do in another State. You are not able to do it if the State legislature puts an inhibition against it."

Mr. BASS. We have said that many times.

Mr. DIRKSEN. But we are going down that same old rathole.

Mr. BASS. Just a moment. I hope the Senator will not come here with that rathole, or say that this is a great rathole. With all the prosperity we have, with our standard of living, with the great people who live in this Nation, with all the things they have, it is not fair to say that this Government is going down a rathole or is leading us down a rathole. My friend from Illinois does not

believe that. That is the preaching of the society which the Senator's party has been trying to get out from under its coattails. That is the burr under the saddle. That is the preaching of the John Birch Society, about our country going down a hole, that it is going in the wrong way.

Mr. President, this country is going in the right direction. This is a great country, and I believe in it.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. DIRKSEN. I marvel at the Senator's circumlocution and his intrusion of all these extraneous matters. My people came from the old country. They came here for a purpose. They came to find one thing, and that was freedom.

You see, I took it in mother's milk. I took it straight.

I am sure the Senator has heard about the schoolteacher who said to Johnny, "Johnny, how do you spell 'straight'?"

The teacher said, "What does that mean?"

Johnny answered, "Without ginger ale."

That is the way I take my freedom. When it is less than that, it is not freedom. But the Senator from Tennessee is willing to have his neighbors regiment him.

Mr. BASS. Oh, no; this is only the freedom of the right to negotiate.

Mr. DIRKSEN. The right to negotiate under the pressure of losing one's livelihood.

Mr. BASS. But we live among the masses. When we talk about people coming here to obtain freedom, that is wonderful.

The Senator mentioned the Statue of Freedom on the dome of the Capitol.

Mr. DIRKSEN. Yes.

Mr. BASS. What is that a statue of?

Mr. DIRKSEN. We say it is a Statue of Freedom.

Mr. BASS. But what is it?

Mr. DIRKSEN. Exactly what I said.

Mr. BASS. But what is it a symbol of?

Mr. DIRKSEN. Freedom of conscience; the right to go through a church door.

Mr. BASS. What kind of person is represented by the symbol of freedom? It is an Indian, is it not?

Mr. DIRKSEN. No.

Mr. BASS. Is that not a statue of an Indian?

Mr. DIRKSEN. If the Senator thinks it is, perhaps I ought to refresh him.

Mr. BASS. What is it?

Mr. DIRKSEN. To begin with, that statue was done in Italy, by a celebrated sculptor.

Mr. BASS. Is that not a statue of the Dome. What is it a statue of?

Mr. DIRKSEN. It is a symbol, call it what you will. The Senator thinks that the feathers around its head would make it an Indian.

Mr. BASS. I think it symbolizes the American Indian. It is merely a symbol.

Mr. DIRKSEN. That is only a laurel wreath.

Mr. BASS. I did not know what it was. I had heard it was a statue of the American Indian. Who is the Historian of the Capitol? Where is the Architect of the Capitol?

Mr. DIRKSEN. He is not the authority.

Mr. BASS. When the Senator mentioned freedom, I thought to myself that there was only one time in this country when there really was freedom, and that was probably when the Indians roamed the land. But even they did not have complete freedom, because they lived in tribes. They had supervision, and they had regimentation.

Whenever people live together in a society, it is necessary to have certain standards and to live by certain regulations. I do not agree with all of them, and I have not voted for all of them, only those of the past 11 years, or most of them. That is the reason why I think they are good; that is the reason why I think we are going in the right direction. So let us not get derailed.

Mr. DIRKSEN. I am not going to be derailed.

Mr. BASS. Let us talk about the facts.

Mr. DIRKSEN. The Senator is already derailed on the freedom issue and has been derailed for quite some time.

Mr. HOLLAND. Mr. President, will the Senator from Illinois yield?

Mr. DIRKSEN. I yield to the Senator from Florida.

Mr. HOLLAND. I was fearful that one fact and, I think, an important fact, might be lost sight of in this highly interesting, and able discussion: That is, that in some of the 19 States, as in my own, the right-to-work provision is a constitutional provision. It has not merely been an act passed by the legislature of a State, although it was first submitted by a legislature.

Mr. DIRKSEN. It does not necessarily have to be a constitutional provision.

Mr. HOLLAND. But adopted by the voters of the States by a statewide expression, which is the case in my State.

I should like to remind both the distinguished Senator from Illinois and the distinguished Senator from Tennessee that not only have several efforts been made since that time to have the legislature submit a repealer of that constitutional provision, always unsuccessfully, but also, instead of slowing down, our State has probably had the most rapid, the most permanent, the most prosperous growth. Certainly Florida is one of the most prosperous among all the States. Florida's growth has been rapid since the constitutional amendment was submitted in 1943 and adopted by the people in 1944. Our population has risen from just over 2 million to a population of 6 million. Our industry has improved greatly. Our level of wages has risen. Our per capita wealth has gone up. In every sense, we have shown a record far above the average record of the 31 States which do not have right-to-work acts.

The reason for my rising is not only to invite attention to the fact that these constitutional provisions were put there by all the people of the State—and a sizable majority were involved in the matter—but also to invite attention to the fact that this bill is an effort to have a Federal statute, enacted by Congress, to overcome the expression of sovereignty in those constitutions, in many cases, and in State statutes, in other cases, and to pick a course different from that which the people of a State think leads best to freedom and to the enjoyment of personal liberty.

I do not approve the idea that a central government has a better conviction, has a better understanding, about what constitutes liberty and what constitutes freedom than do the people of the States themselves. I dislike to see Senators, Representatives, and the executive branch of the Federal Government moving to have a great centralized government which, at the Washington level, will pass upon, and under the dome of the Capitol, which has on it a statue not of an Indian, but of a figure of a beautiful woman symbolizing liberty—I do not like to see such a centralized government overcome an expression of sovereignty in 19 States, States which I believe, under our Federal Constitution, have the right to make that sort of expression.

I do not believe that under a central government which seizes authority to control all the actions of the people we shall have that degree of liberty which I think all Americans want to have.

I wanted to invite attention, for the record, to the fact that the bill seeks, by an expression of a simple majority of Senators and Representatives, expressing the views of various people whom they represent, to repeal provisions of State constitutions which have led the way to prosperous growth, prosperous living, and advancement in the free field of individual happiness in many of the States that have right-to-work laws, including two that are in the very forefront of growth and prosperity, namely, the States of Florida and Arizona. I feel sure that the Senator from Illinois will make appropriate reference to the fact that there have been in the right-to-work States ample showings of an ability to grow, of an ability to serve their people, of an ability to have the people serve themselves, of an ability to improve standards of living. These results are so sufficient a showing that I think we should be most reluctant to have a centralized government in Washington say that it knows better than the people of Florida, the people of Arizona, the people of Kansas, or the people of any others of the 19 States that have adopted freedom to work by fundamental governmental acts, which have brought the people the blessings of liberty. This is the bedrock on which we stand in opposition to the repeal of section 14(b).

Mr. DIRKSEN. I sought to emphasize the fact that State sovereignty and its invasion by the Federal Government is something that is growing in this country. In proportion as Congress moves in to preempt first one field, and then another, there will be a leaching away of our sovereignty, until at long last no authority will remain back home

in what I call the laboratories of government. That, as well as the freedom to work, is a fundamental issue before us.

I never got to finish my explanation of what happened in prohibition days. Some people thought it sinful to drink. They thought there was a moral issue involved, quite aside from what one may think about the impact of hard liquor upon a person's health. In any event, groups and associations were organized. It was said, "It is wrong to drink, and so we must stop it." A person who feels otherwise would say: "But I like to drink, and I want to feel free to take a drink." The organizations then said, "We do not care whether you want to take a drink or not. We will stop you." And they did.

What happened? That was one of the most abortive evil periods in the history of this Republic. I ought to know because of the Capone gangsters who operated out of my State, with all the evil things that went along with their operation.

The morals of the people of the country were seriously corrupted when people went down long alleys and looked through peepholes and made signals and signs in order to give them the old business in order to get a drink.

What was at the bottom of its repeal? It was the only amendment that was removed from the Constitution. The reason for its repeal was that it was an invasion of the freedom of the people. When we do that, there will be an accounting for it. We are being asked here to use the force and the power of the Government to deny to the States the right to legislate in that field. I promise one and all that if we do that, it will be only a little while until the cry will go up: "That whole field of labor activity has been preempted by the Central Government, just as it preempted the subversion field with the Smith Act."

When the State of Pennsylvania tried some people and convicted them, ultimately the case went out the window of the Supreme Court house, because the Court said, in effect, "The Federal Government has now preempted this field so that you no longer have any interest in the subversion of your government."

How long can we continue in that way and still have a Federal-State system left?

Mr. BASS. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield. I note that the Senator from Tennessee found "freedom."

Mr. BASS. Mr. President, my beautiful Indian maiden——

Mr. DIRKSEN. She does not look Indian to me.

Mr. BASS. That is what I thought, but she has turned into a freed Roman slave. She is a beautiful girl, well adorned.

It is stated in the book, "We, The People" that:

> The Statue of Freedom towers in enduring bronze above the Capitol dome. Sculptor Thomas Crawford planned her as "armed liberty" with the soft cap of freed Roman slaves, but changed her to "Freedom" with the helmet of eagle head and feathers after objections by Jefferson Davis.

I had thought in the past in gazing at this beautiful 19- or 20-foot statue that it was the statue of a beautiful Indian maiden. I have not been disillusioned. However, I have learned some history. It is good that we can have these history lessons as we go along.

Mr. DIRKSEN. Is not the Senator glad that he learned one world-shaking fact?

Mr. BASS. This is the only thing in this debate that has changed my opinion on any subject.

Mr. DIRKSEN. Mr. President, I note that it is almost 4 o'clock. I have been on the floor since noon, and I have been talking since a quarter to 1. I have not had any lunch. The papers on my desk give an indication of how much material I have and how long this attenuated, but informative, discussion will go.

Mr. BASS. Mr. President, I think that this informative discussion should continue until every Senator has had an opportunity to be completely informed on this great issue. Then I believe that the Senate should be allowed to vote yes or no as to whether this is a good or a bad law.

Mr. DIRKSEN. The Senator forgets that the country must be informed, too.

Mr. BASS. The country evidently is already informed, I believe, from the number of editorials that the Senator has with him. I believe that the country was informed probably prior to the time that the Senate was informed.

Mr. DIRKSEN. The people of Tennessee are sufficiently informed. The people of Illinois are being informed through me. I want them to be fully informed. They continue to write to me about it. The people are saying, "Keep section 14(b)." I will bring in the mail sacks tomorrow and dump them here.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DIRKSEN. Mr. President, I know that we cannot bring flowers into the Chamber. However, is there any rule to prevent me and my staff from coming in tomorrow with a couple of sacks of mail from union members and dumping them on my desk?

The correspondence will be all over the place. We shall pick the correspondence up at the end of the day. I do not want to violate any rule.

Mr. BASS. Mr. President, before the Parliamentarian gives any ruling, if the Senator were to bring the correspondence into the Chamber, it would only be seen by a few people. However, if he were to pile it up somewhere else, pictures might be made. No cameras are allowed in the Senate Chamber.

Mr. DIRKSEN. I shall bring it back to my office, where TV cameras are permitted.

Mr. BASS. That would save the Senator a great deal of trouble.

Mr. DIRKSEN. I shall let the Senator see the correspondence.

Mr. BASS. I should like to come to the office of the Senator if the Senator would permit me to get on the TV with him. The Senator is good at that. I should like him to teach me how to use the TV to sell these points.

Mr. DIRKSEN. I would not do the Senator any good.

The PRESIDING OFFICER. There is nothing in the rules to prevent a Senator from bringing mail sacks into the Chamber. However, pursuant to custom, Senators generally clear this sort of thing with the Sergeant at Arms.

Mr. DIRKSEN. Mr. President, I do not know that the Sergeant at Arms can interpret the rule.

I shall be glad to discuss the matter with that distinguished gentleman. He will probably say, "You have to submit that to the Presiding Officer and get a ruling on it."

The PRESIDING OFFICER. There is nothing in the rules to prevent it.

Mr. DIRKSEN. Very well. If the correspondence pops out all over the place, and I am covered with mail, I will be within the rules.

Mr. President, for the moment, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, while the minority leader is present, I want to thank him for putting this matter in its proper perspective.

Mr. BASS. Mr. President, will the Senator from Wyoming yield to me, without losing his right to the floor, so that I may suggest the absence of a quorum?

Mr. SIMPSON. I yield for that purpose.

Mr. BASS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BASS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I thank the distinguished minority leader for placing the debate in depth and in proper perspective. As I listened to his mellifluous voice, I was glad to note that this master craftsman has not lost any of his touch. I hark back to high school days—and that is quite a "hark," when I say:

> Over his keys the musing organist,
> Beginning doubtfully and far away,
> First lets his fingers wander as they list,
> And builds a bridge from Dreamland for his lay:
>
> Then, as the touch of his loved instrument
> Gives hope and fervor, nearer draws his theme,
> First guessed by faint auroral flushes sent
> Along the wavering vista of his dream.

It seems to me that this describes our distinguished minority leader.

Mr. President, I want to tell something of the Wyoming story as part of this debate in depth, because we now have before us a motion to bring up for

the consideration of the Senate one of the most serious challenges to a fundamental concept in our form of Government. It is the motion to consider the legislation which would repeal section 14(b) of the Taft-Hartley Act. When Congress initiated the Taft-Hartley Act, in 1947, it included section 14(b) to protect the right of the States to enact their own laws or to adopt constitutional provisions in order to make compulsory unionism illegal. The question of whether a union shop is good or bad for an individual or for labor-management relationships, is not the key question, although that has been the raging issue that has confused and clouded this controversy. The real issue, with which we are faced, is whether Congress should, by law, abolish the right of a citizen of a State to reject authority for compulsory union shops in his State. My State, which is known as the "Equality State," because we were the first State to acknowledge and grant women's suffrage, has adopted a right to work law. I think it is fitting that Wyoming is one of the 19 States that has exercised that right as inherent and has been reserved by section 14(b) of the Taft-Hartley Act.

Because of Wyoming's fundamental beliefs in equality and equality of opportunity, we have always championed freedom of choice, freedom of association and the freedom to refrain from association. This is the real basic issue confronting the Congress.

Wyoming's people are an intelligent group who have had, through the last several years, an opportunity to fully acquaint themselves with the right-to-work issue. I am confident that the great majority of the people agree with the views expressed by the Wyoming newspapers, radio, television, and State legislators, as well as the many associations and organizations, that believe and support the concept of freedom of choice, as guaranteed to them by Wyoming's right-to-work law, which would be wiped off the books if Congress were to dictate against the best interests of the Nation by repealing section 14(b) of the Taft-Hartley Act.

It is my intention, Mr. President, during the next several days, to tell the Wyoming story. I intend to set forth the history and background of Wyoming's right-to-work law, the effect it has had on the economy and union membership. I want to show my colleagues in the Senate what the newspaper editors are saying in the State of Wyoming. I believe, on this issue, they are reflecting the thinking of the great majority of the Wyoming people. I, then, intend to share with Members of the Senate, an excellent article which appeared in the Wyoming Law Journal, in the spring of 1963, title of that article is "Right to Work: Prohibition of Expression or Coercion." This article discusses the Wyoming right-to-work law and presents the history of the development of the right-to-work laws in the United States. I am anxious that this Law Journal article be read by all Senators.

I am hopeful that time will permit, in the next few days or weeks, that I can tell the full Wyoming story. Certainly, Wyoming is a great State which enjoys its freedoms and responsibilities. I believe that if all the Senators could understand the Wyoming story, they would stand here on the Senate floor fighting for the retention of section 14(b) of the Taft-Hartley Act.

I do not mean to suggest that that which is ideal for the State of Wyoming will meet the needs of the other 49 States. Consequently, I would not support a national right-to-work law nor Federal legislation calling for a closed shop. I believe this should be the determination of each State so that the State representatives, who are closely associated with the people, can make that determination.

The Federal Government should not intervene.

The "Equality State" of Wyoming has long had a record of recognizing individual liberties. It was wholly consistent with this heritage that the 1963 legislature exercised its rights, as reserved by section 14(b) of the Taft-Hartley Act, in enacting a right-to-work law.

I would like to review for the Members of the Senate the history which led to the adoption by our State legislature of the law, the statistics of union membership before and since passage of the right-to-work law and the general economic comparisons.

Although not a heavily industrialized or unionized State, Wyoming has had generally good labor-management relations over the years. We have had local unions led by responsible, respected people.

Yet, as in everything where there is a potential of abuse, and in an effort to avoid such abuse and protect the rights of all individuals, the right-to-work law was proposed and an extensive statewide educational program was started in the spring of 1962 and continued through the November elections.

In 1954, the State supreme court held that our State constitution prohibited any person from being forced to belong to a union in order to retain his job. Yet, there were no penalties in our State laws for violation of this constitutional guarantee.

During the construction of the Atlas missile sites in the southeastern part of our State in the late 1950's, numerous wildcat and unauthorized work stoppages occurred. I refer you to the record of the hearings held by Senator McCLELLAN and his committee on behalf of this distinguished body for details on these work stoppages and wildcat strikes. Many of these were alleged to be in furtherance of objectives set by men who had come to our State to work on this missile construction. These men were able to outnumber and therefore take away from our local union members control of their own unions in several instances. If our local Wyoming union leaders had been able to control the situation, I am sure we would not have had the problems.

A considerable number of these local men, many of whom had served their local unions as officers and who had a great devotion of loyalty and allegiance to their local union, became discouraged and unhappy at seeing what became, under these circumstances, the objectives, attitudes, and policies of their unions.

Because they had to belong to a union or lose their jobs, they could usually do nothing. Because they were outnumbered, our Wyoming union members could not change anything within the union local which they had nurtured throughout the years; they could not withdraw their membership or they would be fired; they were forced to remain a member even though their individual will might dictate otherwise.

At the same time, the people of our State had been able to observe that unions which are responsibly run and can grow and prosper without forced unionism since some of the major unions in our State had contracts which did not have a union security clause.

As examples, the contracts between most of the oil refineries and their unions did not contain forced unionism provisions; yet a high percentage, if not all the working people in the refineries belonged voluntarily to the union.

The Operating Engineers Union, which represents the heavy construction equipment operators and mechanics, had grown from a membership of less than 100 to become the largest construction union numerically in the State under contracts with the Associated General Contractors of Wyoming. These contracts had never contained a union security clause.

The members of this union in 1960, through a secret ballot rejected by a vote of 5 to 1, contract provisions which would have incorporated a union security clause in their contract with the members of the Associated General Contractors.

Therefore, when some of the citizens and organizations of our State of Wyoming felt that enactment of a right-to-work law by our State should be considered, they found that hundreds and thousands of Wyomingites heartily concurred.

The formation of Wyoming Citizens for Right To Work, Inc., a nonpartisan group, led to a vigorous discussion of right to work throughout the length and breadth of our "Equality State."

Union members and other working people joined in urging enactment of the legislation while other individuals and groups were just as vocal in urging that the legislation not be enacted.

Excerpts from some of the endorsements by organizations in favor of the adoption of a right-to-work law were:

WYOMING TRUCKING ASSOCIATION

Be it hereby resolved by the Wyoming Trucking Association in convention assembled: That this association does publicly and with determination stand unitedly against the principle of all forms of compulsion; and that the principle of right-to-work laws is important to our employees to maintain their personal freedom and liberty; and that this resolution be made public in order that our employees may know our stand beside them.

WYOMING FARM BUREAU FEDERATION

We believe it is fundamental that the right to voluntary unionism should once again be reestablished in this Nation and that State right-to-work laws should be maintained inviolate. At the very base of our doctrine stands the right to the free agency of man. We are in favor of maintaining this free

agency to the greatest extent possible. We look adversely upon any infringement thereof not essential to the proper exercise of police power of the State. We hereby publicly proclaim and reaffirm our stand on this principle of personal liberty.

WYOMING RETAIL MERCHANTS ASSOCIATION

Wyoming citizens are free to volunteer their support to private organizations of their choosing, including labor unions. They must also be permitted to exercise their freedom to withhold their support from those organizations they do not wish to support. The coercion of individuals by any private organization is repugnant to the American spirit of independence.

WYOMING GRANGE

Whereas closed shop and other monopolistic tactics of labor unions create hardships on part-time workers, are contrary to the ideas of the founders of our Constitution, and retard the growth of industry in our State: Therefore be it

Resolved, That the Wyoming State Grange is opposed to closed shop or other regulations which deny any person the right to work where and when he wishes.

ASSOCIATED GENERAL CONTRACTORS

The forcing or compelling of any person to be a member of any organization in order to keep a job is against the principles upon which America was founded. At the same time we believe every person should have the right to belong to a union if they freely and voluntarily so desire. These are the things that a right-to-work law enacted for Wyoming would guarantee to its citizens. We urge that the next legislature adopt such a law.

WYOMING STOCK GROWERS ASSOCIATION

Although we are not opposed to honest trade unions, we believe that no man should be denied employment solely because of membership or nonmembership in an organization.

The voters in 1962 followed this discussion by the election of a legislative body which enacted our State's right-to-work law.

That law implements our State constitutional provisions, to which I referred earlier and, at the same time goes further by specifically making it against the law for anyone to interfere in the voluntary individual right of any person to belong to a union of their choice.

Wyoming's right-to-work law reads as follows and can be found in Wyoming statute 1957, section 27–245.1 through 27–245.8:

An act to provide that employment shall not be conditional upon membership or nonmembership in, nor upon the payment or nonpayment of money to, a labor organization, providing for injunctive relief, damages to injured persons, and providing a penalty for violations.

SECTION 1. (a) The term "labor organization" means any organization, or any agency or employee representation committee, plan or arrangement, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(b) The term "person" shall include a corporation, association, company, firm or labor organization, as well as a natural person.

SEC. 2. No person is required to become or remain a member of any labor organization as a condition of employment or continuation of employment.

SEC. 3. No person is required to abstain or refrain from membership in any labor organization as a condition of employment or continuation of employment.

SEC. 4. No person is required to pay or refrain from paying any dues, fees, or other charges of any kind to any labor organization as a condition of employment or continuation of employment.

SEC. 5. No person is required to have any connection with, or be recommended or approved by, or be cleared through, any labor organization as a condition of employment or continuation of employment.

SEC. 6. Any person who directly or indirectly places upon any other person any requirement or compulsion prohibited by this act, or who makes any agreement, layoff, strike, work stoppage, slow down, picketing, boycott or other action or conduct, a purpose of effect of which is to impose upon any person, directly or indirectly, any requirement or compulsion prohibited by this act, is guilty of a misdemeanor and shall also be liable in damages to any person injured thereby.

SEC. 7. Any person injured or threatened with injury by any action or conduct prohibited by this act shall, notwithstanding any other law to the contrary, be entitled to injunctive relief therefrom.

SEC. 8. Any person convicted of a misdemeanor, as defined in this act, shall be punished by a fine not to exceed one thousand dollars ($1,000), or imprisonment in the county jail for a term not to exceed 6 months, or both.

When he signed this measure into law, the Governor of our State, Clifford P. Hansen, stated:

With my signature as Governor of Wyoming, the right-to-work bill becomes law. I sincerely believe this is in the best interest of all the people of Wyoming.

Last summer, I stated several times that I would neither recommend nor ask for the passage of this bill by the legislature. This promise I have kept.

The merits and the disadvantages of the law will continue to be debated for many days to come. But the crux of the issue, in my opinion, is that the measure is designed to restore full freedom of choice to the working men and women of Wyoming.

Further, it guarantees anew one of the most important hallmarks of American liberty and citizenship—the right of individual decisionmaking.

The great benefits which flow from these inalienable rights must be apparent to everyone. With only a fraction of the world's population, we produce nearly half the world's goods. No nation on earth has a standard of living even remotely comparable to ours.

American citizenship imposes the duty and the responsibility upon each of us to stand as individuals, to make up our own minds, to arrive at our own decisions.

The labor movement in America, which has done so much to raise the standard of living of our working men and women, will not be strengthened by making membership compulsory or obligatory. Rather, its influence and effectiveness will grow as individuals, convinced of its merit, join its ranks.

I salute Wyoming's labor leadership. There is an important role for labor to play. I feel confident that industry and labor, meriting each other's confidence and respect, will make Wyoming an even better place in which to work and live in the days ahead.

This has been evidenced by the fact that we have no bonded indebtedness in the great State of Wyoming, nor any income tax, and that virtually the entire State's method of taxing is embraced in the 2-percent sales tax.

During the legislative consideration charges and claims that enactment of the legislation would result in reduced wages, a loss of union membership, a decline in industrial development, a flood of businesses into the State which through slave labor wages would force ethical enterprises out of business, and similar claims and charges were loudly and publicly proclaimed.

As I said earlier, public assertions were repeatedly made by some who opposed enactment of a right-to-work law by the State of Wyoming that if enacted certain things were sure to happen. These included a reduction of workers' wages, a decline in union membership, a reduction in the bargaining power of unions and decline in the coverage of union contracts, a cut in business expansion, and so on.

This was particularly important to me, Mr. President, because as a younger man I, too, served as a member of the coal miners' union.

What are the facts? What has happened in these and other areas of economic activity? How do we compare today with the period immediately prior to enactment of the right-to-work law which became effective May 18, 1963? Let us take a look at some of them, one by one.

First. Membership in unions: The rightful concern of the average union member that his union would dwindle in number and die, which was preached to him by some union officials, if the right-to-work law was enacted, is refuted by the latest published statistics on union membership.

The U.S. Department of Labor, 1961 edition of Directory of International Labor Unions in the United States, shows Wyoming's total union membership in 1960 as 16,900. The Wyoming Department of Labor in its july 1965 Directory of Labor Organizations in Wyoming computes total union membership in the State at the end of the year 1963 as 18,100. These figures show a total membership increase even with enactment of the right-to-work law. It is interesting to note that a check of the same U.S. Department of Labor publication, 1959 edition, gives Wyoming total union membership in 1958 as 20,500 persons so that union membership had declined drastically prior to enactment of the law, and it is gratifying to see that it is increasing since the law was adopted.

Mr. LONG of Louisiana. Mr. President, will the Senator from Wyoming yield?

The PRESIDING OFFICER (Mr. HARRIS in the chair). Does the Senator from Wyoming yield to the Senator from Louisiana?

Mr. SIMPSON. I am glad to yield to the Senator from Louisiana.

Mr. LONG of Louisiana. In what year did the Wyoming Legislature pass that law?

Mr. SIMPSON. In 1962.

Mr. LONG of Louisiana. I thank the Senator.

Mr. SIMPSON. Mr. President, throughout the time of legislative activity in Wyoming there has been, as might be expected, considerable editorial comment. The preponderance of such comment has been favorable to the right-to-work principle. This in spite of the fact the major daily papers are published in the same areas where organized labor is most prominent.

More important here, perhaps, are the editorial comments concerning the repeal of section 14(b). The Laramie Daily Boomerang in an August 10, 1965, editorial asks, "Is It Consistent?"

Is it consistent for Congress to guarantee civil rights for some and take them away from others?

Congress is doing it by pushing for repeal of so-called right-to-work laws.

Assume a man—a good worker—has been employed in a new shop which is unionized.

It's the first union shop in which he's worked. He knows and appreciates the fact the union is strong in the shop and has worked hard to improve working conditions and to get higher pay for employees.

But the new man doesn't want to join.

He doesn't approve of some union policies. He doesn't like assessments. He isn't a joiner.

He's willing to make a voluntary contribution to the union to help cover the costs of salary negotiations but he doesn't want to pay union dues.

He can work in Wyoming.

But if the right-to-work law's repealed, he'll be out of a job.

His right to choose will be blocked.

His civil rights will be denied.

Is this justice for the American workingman?

The Wyoming State Tribune, one of Cheyenne's two daily papers, recalled the prophecies of economic doom made by the opposition when Wyoming's right-to-work law was enacted. The editor went on to point out the improved economic factor and finally stated:

The thunderclap of doom failed to materialize and here we are a year later bigger and better than ever. The figures are there to sustain this claim; no one can deny them.

The Gillette News-Record—located in the heart of the oil production area—comments on the repeal of section 14(b) in this way:

The Taft-Hartley section 14(b) uncovered a distressing fact about our Government today. The administration is willing to trade off public trust for private debt. It also showed that Congressmen will vote against the interest of their States to help the unsound governmental process.

The Cody Enterprise stated:

The vote on section 14(b) reaffirms a sad fact in Government today. It reveals nakedly and with brazen contempt for the heavily-taxed citizen back home that politicians in power today will vote against the interests and expressed preferences of their respective States in order to help the administration in power pay its political debts regardless of what may or may not be in the best interest of the country.

The Associated Press news service in Wyoming published the following interview in August 1965 concerning the question:

How has the right-to-work law affected Wyoming labor unions in the past 2 years? Thomas R. Lee, president of the Communications Workers local, which encompasses most of southern Wyoming, said it has had little effect on industrial unions in the State and that his union actually gained membership shortly after the right-to-work bill became law in Wyoming.

An official of Cheyenne's Auto Mechanics local was asked of his union's plans if section 14(b) was repealed and Wyoming's right-to-work law invalidated. Ron Turner said, according to the Associated Press release, that they would then seek a closed shop. "Then we can chase the scabs out," he said.

Perhaps Afton, Wyo.'s, Star Valley Independent, said it best when they wrote:

We believe that if Wyoming voters could vote on this one issue alone by secret ballot, there would be no question but that they would favor retaining the right-to-work law. Our people have always favored freedom of association—the right of any person to join or not join a club, civic group, political organization or anything else. The right to join or not to join a union is certainly at least as basic as any of these.

At this time, Mr. President, I would like to read for the RECORD a few of the editorials which have appeared in a cross section of the papers from Wyoming. I have selected editorials from different newspapers in the State of Wyoming that, in my judgment, probably reflect the thinking of our Wyoming people. I would first like to read an editorial that was written by the editor of the Casper Tribune, which is Wyoming's largest daily. This editorial also was picked up and printed in the Independent Weekly of Afton, Wyo.:

A STATE QUESTION

Section 14(b) of the Taft-Hartley Act is a permissive provision which makes it possible for States, if they desire to do so, to enact right-to-work laws.

Union labor has been working for the repeal of this section, particularly since a number of States have adopted such laws, and President Johnson advocated repeal when he delivered his state of the Union message. Representative TENO RONCALIO of Wyoming last week introduced a bill in the House to repeal the section.

A few States which had right-to-work laws have repealed them, but in most cases, they remain as part of the State statutes. These include Wyoming, where the senate at the last session rejected repeal by a narrow margin after it had been approved by the house.

The question of right-to-work laws should be one of State rather than Federal concern. When section 14(b) was approved by Congress, this obviously was the interpretation. If Congress is to determine what laws can or cannot be passed by the individual States, there is not much purpose in electing legislatures.

If section 14(b) is to be stricken from the Taft-Hartley Act, the action will invalidate the right-to-work laws in all the States where they are presently in effect. While Representative RONCALIO doubtless is motivated by the Wyoming situation, he also is telling other States, through the introduction of this bill, that they do not have a right to make their own decisions. As a Member of Congress he also is on dubious ground in attempting to override the Wyoming State Senate.

This is purely a question for Wyoming and other States to decide. It is at that level that the battles should be fought and the verdicts returned.—THE CASPER TRIBUNE.

The editor of the Wyoming State Tribune has commented, in an editorial of May 29, 1965, about "Those Dire Predictions." I think his editorial puts the subject matter of Wyoming's right-to-work act in proper perspective. I read it:

THOSE DIRE PREDICTIONS

Last year and the year before, many claims were made about how the Wyoming right-to-work act would increase unemployment and generally stagnate the State, economically. Numerous were the assertions that payrolls would decline and along with them, the wage level.

Instead of decreasing, however, the State's economy has continued to boom and along with it, employment and wages. The latest report of the State Employment Security Commission bears out this trend.

The latest figures, those for the month of April 1965, show that the unemployed total in the State now is 5,400 persons, down from the March figure of 7,200. The April total is 900 fewer unemployed persons than for the same month of 1964.

The total work force is 5,000 fewer than April 1964, but this is due, says the ESC, to only one segment of employment: Agriculture, nonprofit domestic and self-employed persons.

The agricultural segment within itself, the Employment Security Commission says, is down 3,000 from April 1964; but still has climbed 3,000 from March of this year. The State's rate of unemployed stood at 5.6 percent in March compared with a national rate of 5.1 percent; in April for unemployment insurance filed it had fallen to 4.1 percent. Claims with the commission's local offices in the State dropped more than 35 percent in April over March.

On the nonfarm and salary sector of the employment picture, the total employed rose from 90,600 in March to 92,700 in April which amounted to 300 more than the figure for April 1964.

One of the biggest gains was in contract construction which showed a gain of 1,000. Retail trade also was up 400 to 15,800, and government employment was up 400 to 25,400.

In manufacturing, average weekly earnings rose in April to $113.58 from the figure posted in March of $110.58. The April figure contrasted favorably with April 1964, which was $110.04. In the Casper area, the average weekly earnings for the manufacturing industries rose from $119.42 in April 1964, to $130.32 in April 1965.

It doesn't seem from these figures that all of the dire things that were predicted would happen with passage of the right-to-work act, and the subsequent failure of the legislature to repeal it in the 1965 session, have come to pass.

One of the most unionized areas in Wyoming is Kemmerer, where coal mining and railroading are the major industries. The Kemmerer Gazette of May 6, 1965, wrote a stirring editorial criticizing those who attempt to deny the States the right to legislate on these matters. It also wrote an editorial on April 22, 1965. I read both of them:

[From the Kemmerer (Wyo.) Gazette, May 6, 1965]

Congress, which is supposed to be responsive to the desires of the voters, may find itself barking up the wrong tree in the forthcoming debate over the union bosses' demand for repeal of Taft-Hartley's section 14(b)—that portion of the act that reaffirmed the right of the individual States to enact laws that prohibit compulsory union membership.

While there has never been any doubt of public support of the right to work without paying dues to a union, sentiment for broader protection than that afforded by 14(b) has been steadily growing.

This hardening of public resistance to union determination to control the labor market shows up dramatically in the latest survey on the subject just completed by the Opinion Research Corp. of Princeton, N.J.

Not only do the American people favor retention of 14(b) by better than a 2-to-1 margin, but nearly two-thirds favor an open-shop law for the entire Nation.

In addition to questions on 14(b), pollsters conducting this latest national survey explained that, "Congress is now considering several kinds of legislation regarding Federal and State labor laws," and asked opinions on the following proposals:

1. "Congress should pass a law that all union membership is voluntary and does not affect a worker's right to hold a job." Sixty-three percent of all those interviewed approved.

2. "Congress should pass a law that where there is a union, all workers must join in order to hold a job." With this, only 24 percent—a little more than a third as many—agreed.

And, here again, a majority of union families stated that voluntary union membership "is better for the country" than compulsory membership.

We can't think of a better or simpler way of telling our lawmakers in Congress that most Americans want the right to join a union, but do not want the compulsion. That they want 14(b) left intact. And that they want an unequivocal Federal law that says union membership shall be voluntary and shall not affect any worker's right to hold a job in any State and every State, not just the 19 States that have had the courage and the determination to pass their own right-to-work laws.

[From the Kemmerer (Wyo.) Gazette, Apr. 22, 1965]

The Supreme Court of Wyoming, by a 3-to-1 vote on April 7, reaffirmed the constitutionality of the State's right-to-work law.

In upholding the right of Wyoming to prohibit compulsory unionism, the court clearly rejected the contention of the International Brotherhood of Electrical Workers (AFL–CIO) that the entire statute be declared unconstitutional.

Reed Larson, executive secretary of the National Right-To-Work Committee, hailed the decision as a "clear-cut victory for the proponents of voluntary union membership."

And it should stiffen the spines of at least one congressional delegation against the day when L.B.J. launches his blitz to blow 14(b) out of the Taft-Hartley Act.

I also want to read editorials from the Buffalo Bulletin, the Sheridan Press, the Northern Wyoming News, and other Wyoming newspapers.

[From the Buffalo (Wyo.) Bulletin, July 29, 1965]

A Dangerous Road

Statements by top union and Government officials have been in the papers concerning why section 14(b) of the Taft-Hartley Act should be repealed. The reason seems to be to give the unions more power and money, and to keep campaign promises. Neither answer bears on the principle involved.

The growth of centralized government in the United States is frightening. Compulsion is applied to the most personal affairs of life such as the right to not pay for a job, the right to not pay for State medicine, and the right to freedom of choice.

A bill has been introduced in Congress to exempt members of certain religious organizations from being compelled to join a union to hold a job, because this is contrary to their basic religious convictions and teachings of their churches. Are their convictions any more sacred than those of individuals who were taught to uphold freedom in the United States and what it stands for as compared with special privileges for special classes? It is ridiculous for one law to say that if I belong to a certain church, I have a right to not join some organization which another law says I would have to join to hold a job.

Last year, Congress passed a law outlawing job discrimination on the basis of color, race, religion, creed, et cetera. Now it is being asked to legalize discrimination in employment because of lack of membership in a private organization—a labor union. This is as unthinkable as asking Congress to legalize nonemployment of a man because he chooses to belong to a labor union, or because he doesn't belong to the National Association of Manufacturers and pay dues. Either way, it is unjustified limitation of action and thought.

It is most depressing to see the time of the U.S. Congress taken up with proposals to deny States their right to pass right-to-work laws, thus taking one more step down the road to federalization of local affairs. Another generation or so along this road we are traveling and State and local government will be emasculated.

[From the Sheridan (Wyo.) Press, Aug. 25, 1965]

Protect Secret Ballot

There are some powerful indicators that the right-to-work laws which have been adopted by 19 States will be outlawed by a simple amendment to the Taft-Hartley Act.

Perhaps the most significant of all the signs is the apparent strong support of President Johnson. The President has made a remarkable record in getting Congress to approve virtually everything he has wanted in the way of major legislation. And he is giving this amendment the ranking of "major White House legislation."

We are not certain that the State laws which outlaw compulsory unionism are as undesirable as unions paint them nor as desirable as their supporters make them appear. But we are definitely convinced that if the amendment is passed to 14(b) that there are other precautions which should be taken to protect conscientious objectors to compulsory unionism.

Certain the question whether workers should be required to join a union in order to hold their jobs has been a highly emotional issue for many years. In some instances unions have been solid and dependable and have contributed to sound labor-management relationships. In other cases unions have been most irresponsible and have contributed to arrogance and sometimes corruption. Management has in instances joined with labor leaders to the disadvantage of the workers.

Before the Taft-Hartley law is amended to please the union leaders some other precautions should be taken for protection of the public and the workers themselves. One of the most important of such changes would be a clear requirement that there be a secret ballot election under supervision of the National Labor Relations Board before a union could be designated the bargaining agent for any group of employees.

Presently a union can be certified as the bargaining agent simply on the basis of signatures to cards. Such signatures may be obtained through pressures which would not apply in a secret ballot. The election should be a must. Not even a contract between employer and the union leader should replace such a secret ballot.

The change now under consideration in Congress should not be made without protecting the right of employees to vote on whether they actually prefer to work under a union shop.

[From the Northern Wyoming News, Aug. 21, 1965]

Employees' Right To Vote

If U.S. Congressmen were elected to office by some of the same procedures used by a union to get selected to the employees' representative, there would be a hue and cry around the country that would make the current dispute over the repeal of section 14(b) of the Taft-Hartley law look like a tempest in a teapot.

The fact is that in some instances the National Labor Relations Board in Washington is depriving employees of the right to a secret ballot election in determining whether or not they want a union. In some cases the Board is actually requiring businessmen to bargain with a union when a majority of their employees do not want that union.

Senator Fannin, of Arizona, on June 29, 1965, in a speech on the floor of the Senate said, "While Congress is struggling to secure the right to vote for all Americans, the National Labor Relations Board is eliminating such right for the American workingman in determining union representation."

Several Senators have introduced bills to guarantee employees this right to a secret ballot election and irrespective of the outcome of 14(b), we think that Congress should enact one of the employee right-to-vote bills now pending.

We suggest that even if a Senator favors repeal of 14(b), he cannot and should not in good conscience vote for such repeal without first guaranteeing employees the right of a secret ballot to determine whether they want a union in the first instance. Certainly, if a Senator is opposed to the repeal of 14(b), he should support the employee right-to-vote amendment.

Let's not put the cart before the horse. Before Congress gets rid of "right to work," let's make sure that employees are guaranteed the "right to vote."

[From the Torrington (Wyo.) Telegram, July 19, 1965]

Straitjacket

On July 2, the Equal Employment Opportunities section of the 1964 Civil Rights Act went into effect. This is the provision that outlaws discrimination in employment because of race, color, religion, sex, or national origin.

In the near future, Congress will be called upon to approve or reject the proposal to repeal section 14(b) of the Taft-Hartley Act. Section 14(b) authorizes the States to pass right-to-work laws, which forbid compulsory union membership as a condition of employment. Nineteen States have done so.

It's hard to see how a Congress which approved the Equal Employment Opportunities guarantee could even think of repealing 14(b). Certainly, the right of a man to hold his job without being forced, against his will, to join any private organization is every bit as basic as the right to obtain a job for which he is qualified regardless of his race or religion.

Labor is free to organize. This is recognized in law and overwhelmingly supported by public opinion. By the same token, the individual worker should be free not to join a union if his beliefs and his conscience so dictate.

The Florence, S.C., Morning News came straight to the point when it said: "Should Congress * * * invalidate existing right-to-work laws, it would straitjacket American production to the whims of a handful of all-powerful labor bosses. In that same straitjacket would go an individual right so basic that it seems incredible, that it would be challenged."

[From the Afton (Wyo.) Independent, Feb. 25, 1965]

RIGHT-TO-WORK LAW PRESERVES FREEDOM

Failure of the Wyoming State Legislature to repeal the State's right-to-work law has brought howls of consternation from labor union leaders and legislators who were under pressure to seek repeal. On the other hand, many individuals and groups in the State, including some responsible legislators, have hailed the decision as being in the best interests of the people of the State.

Those favoring repeal—that is, those who do not want a right-to-work law in the State—have accused the legislators, particularly the Senators, of ignoring a mandate they claim was given at the last election. They will undoubtedly continue to make this a political issue of even greater intensity than it has been in the past.

We disagree with any such interpretation of a mandate. We believe that if Wyoming voters could vote on this one issue alone, by secret ballot, there would be no question but that they would favor retaining the right-to-work law. Our people have always favored freedom of association—the right of any person to join or not join a club, a civic group, a political organization, or anything else. And the right to join or not join a union is certainly at least as basic as any of these.

As for the noisy din that comes from the labor union camps—the only thing that prevents it from being completely drowned out is the fact that rural people and those who believe in this basic freedom are not well enough organized and united to be heard in such a concentrated way.

But they have been heard, through the established legislative processes. And perhaps they will be heard even more effectively if encouragement can be given to those who had the courage to stand up and vote to preserve freedom.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. SIMPSON. I yield to the Senator from South Carolina.

Mr. THURMOND. I want to take this opportunity to commend the able Senator from Wyoming for the magnificent address which he has delivered here this afternoon. The distinguished Senator from Wyoming is a former Governor of Wyoming. He has been connected with educational institutions in that State, in fact, he was president of the board of trustees of the University of Wyoming for many years. He is a great American citizen. We are proud to have a man of his high caliber here in the Senate. His speech this afternoon is a great contribution to the education of the people of our Nation on the importance of retaining section 14(b) of the right-to-work law.

Mr. SIMPSON. I am honored.

Mr. THURMOND. I know he shares the view that the primary purpose of Government is freedom, and that when a person is compelled to join a labor or any other organization, as a prerequisite to obtaining a position, or is required to join a labor organization after he obtains employment, that is a violation of freedom. I am sure the Senator agrees with that statement.

In closing, I commend the able Senator for the great contribution he has made to the debate this afternoon.

Mr. SIMPSON. I thank the distinguished Senator from South Carolina. He is overgenerous in his remarks. I am glad to be associated with the Senator from South Carolina and shall work shoulder to shoulder with him for what we think is in the best interests of this Republic, notwithstanding that some who are opposed to us think that their election is more important than the safety and future of this great country.

RESOLUTION EXTENDING GREETINGS OF THE PEOPLE OF THE UNITED STATES TO HIS HOLINESS POPE PAUL VI

Mr. DIRKSEN. Mr. President, on behalf of the distinguished majority leader, the Senator from Montana [Mr. MANSFIELD] and myself, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution which I send to the desk.

The PRESIDING OFFICER. The resolution will be read for the information of the Senate.

The legislative clerk read as follows:

Resolved, That the U.S. Senate join in extending the greetings of the people of the United States to His Holiness, Pope Paul VI, on the occasion of his historic visit to our country.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 153) was considered, and unanimously agreed to.

ROUTINE BUSINESS

The following routine business was transacted by unanimous consent during the consideration of the pending motion to proceed to the consideration of H.R. 77:

CRIME IN THE UNITED STATES

Mr. DODD. Mr. President, two of the leading newspapers in my State carried excellent editorials in their September 10 issues on one of the country's most important, most pressing problems, the crime problem.

Both the Hartford Times and the New Haven Register have applauded the establishment of the 19-member National Crime Commission.

President Johnson has shown his great determination to do something about crime, by focusing public attention on the fact that we can and will deal with the growing crime rate and by giving a broad mandate to the new Commission.

I share the view expressed by the Director of the FBI, J. Edgar Hoover, that "ways can be found to reduce crime to an absolute minimum."

I agree with the New Haven Register:

This is a large order. The cynics might decide immediately that it is an order which cannot possibly be filled. The starry eyed may anticipate overnight fulfillment. The realist, however, will accept it as an order which can be filled but will recognize that it is not going to be easy.

And I agree with the Hartford Times that nothing should deter us from "pressing on with this job as speedily as possible."

Mr. President, I ask unanimous consent to have these fine editorials printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Hartford (Conn.) Times, Sept. 10, 1965]

CAMPAIGN AGAINST CRIME

With declarations from the President, the Chief Justice, the Attorney General, and the FBI Director as inspiration, the new 19-member National Crime Commission has started work.

When it has finished, it should be prepared to recommend an effective program for combatting the Nation's rising tide of crime that is of such deep concern everywhere.

The President told the group that crime "is a menace on our streets" that it is a "drain on our cities" and that it also "is a corrupter of our youth" and a cause "of untold suffering and loss."

Countless investigations, probes, surveys, and studies of every conceivable nature with respect to crime, its causes, consequences (and proposed cures) already have been made. However, it is unlikely that any of them has been made under so urgent a necessity.

The pendulum has swung so far in the direction of worsening crime that the people can wait no longer for drastic action to protect them in their homes and on the streets.

This new study will be one "in depth" ranging far beyond ordinary limits. For example, the President wants the group to determine why organized crime continues to expand; why one man breaks the law and another living in the same circumstances doesn't; why one-third of all parolees revert to crime, and why juvenile delinquency knows no economic or educational boundaries.

FBI Director Hoover emphasized the difficulties in dealing with the growing crime rate but he indicated confidence that "ways can be found to reduce crime to an absolute minimum."

Undoubtedly ways can be found but it is going to take a long time, and enormous amount of money and a tremendous civic effort before tangible results begin to show. However, that should not be a deterrent to pressing on with this job as speedily as possible.

[From the New Haven (Conn.) Register, Sept. 10, 1965]

DRAFTING A BLUEPRINT TO ELIMINATE CRIME

We have a National Crime Commission.

President Johnson now has challenged it, if not ordered it, to draft a "blueprint for effective action to banish crime."

This is a large order. The cynics might decide immediately that it is an order which cannot possibly be filled. The starry-eyed may anticipate overnight fulfillment. The realist, however, will accept it as an order which can be filled but will recognize that it is not going to be easy.

Drafting a blueprint, as we see it, is one thing. Translating such a blueprint, if and when it is drafted, into an action formula carrying all the necessary elements for victory in the overall war against crime is something else again. This action formula, of itself, represents no impossible assignment. Neither is a method for carrying it forward into general success one beyond man's capabilities to attain. But, if it is going to be done it must be done by all of us—our lawmakers, our political leaders, our law-enforcement agencies, our people—and our courts from the highest to the lowest.

We think the key to solution lies, ready to be picked up, in the words the President used in describing crime:

"A sore on the face of America * * * a menace on our streets * * * a drain on our cities * * * a corruptor of our youth * * * a cause of untold suffering and loss."

It is, of course, all of these things and more. The President wants a comprehensive report within 18 months. In it he wants the answers as to why organized crime is on the increase, why juvenile delinquency soars, in good homes and bad. He wants corrective steps taken to cure these, and other menacing evils to today's society.

He urges the committee to be "daring, creative, and revolutionary" in supplying its answers.

Perhaps it needs to display all of these qualities. But, above all, as we see it, it needs to display the quality of realism. It must pull no punches, spare no feelings in putting the blame and the responsibility where it belongs.

As it approaches its task we would like to call its attention to a remark attributed to a western sheriff:

"We may not have much law but we sure as heck have a lot of order."

If the Commission approaches its assignment with this as a potential foundation stone we think it can build—and build solidly.

L.B.J. CHOICE OF STATUE OF LIBERTY—A HAPPY ONE

Mr. PROXMIRE. Mr. President, the President's desire to choose historic settings for the signing of important bills was dramatically revealed in his choosing Liberty Island for signing the immigration bill.

The bill represents a correction in the old national origins quota system, and permits those wishing to immigrate to America to be admitted on the basis of their skills and their close relationship to those already here.

The new bill is fair. The old law was tragically unfair. It was fitting and seemly that the new bill be signed at the base of the Statue of Liberty on Liberty Island in New York Harbor.

This colossal statue, which was unveiled in 1886 was, as everyone remembers, a gift from the people of France to the United States.

It commemorated the 100th anniversary of American independence, and was paid for by popular subscription in France.

The cost of the pedestal was met with funds raised by popular subscription in the United States.

Those at Sunday's bill signing ceremonies could see Ellis Island in the background. As he spoke the President reminded his audience:

Over my shoulder you can see Ellis Island, whose vacant corridors echo today the joyous sounds of long ago voices.

In a sense we are all immigrants to this land and we all know the significance of the torch of freedom.

Now, the new immigration bill ends the vicious discrimination and racism of the old law. The old law in effect said that persons coming from white, Anglo-saxon, Protestant countries are better than those coming from other countries. It cruelly separated children from parents, brother from brother. It did more harm to our foreign relations than the foreign aid billions did good. It was the negation of the Statue of Liberty's plea:

Give me your tired, your poor, your huddled masses yearning to breathe free.

In ending this conspicuous manifestation of racism, the new law takes a small, short step in the right direction. President Johnson has well chosen the Statue of Liberty for its signing.

NEW SERVICE FROM WASHINGTON

Mr. BARTLETT. Mr. President, for the first time, the Nation's Capital is linked with the Far East by direct air service.

Inauguration of this new service by Northwest Orient Airlines took place Saturday morning, October 2, in colorful ceremonies at Dulles Airport.

An intercontinental Boeing 707–302B fan-jet was christened *Northwest Envoy* by Mrs. Warren G. Magnuson, wife of the senior U.S. Senator from Washington State.

Donald W. Nyrop, president of Northwest Orient Airlines, came here from the Twin Cities for the occasion. Ronald McVickar, assistant vice president of the airline, based in Washington, was head of the arrangements group. Several short talks were made. Included among the speakers were Under Secretary of Commerce for Transportation Alan S. Boyd, Gen. William F. McKee, Administrator of the Federal Aviation Agency, and Robert T. Murphy, Vice Chairman of the Civil Aeronautics Board. F. E. Ropshaw, Secretary to the District of Columbia Board of Commissioners, represented the Commissioners at the ceremonies and State Senators Harry F. Byrd, Jr., and Charles Fenwick, of Virginia, were also there.

Three flights will be provided weekly by Northwest in each direction in the new service. Flights will leave Dulles on Tuesdays, Thursdays, and Saturdays for Cleveland, Chicago, Anchorage, and Tokyo. Eastbound flights will start at Seoul, arriving at Dulles with the same intermediate stops on Mondays, Wednesdays, and Fridays. Northwest will now have a total of 16 United States-Orient round trips weekly and the number of weekly jet flights to Alaska will be increased to 10.

Mr. President, this new and additional service is especially pleasing to Alaskans who now will have a further direct connection to the United States Midwest and East. Northwest long since has been an integral part of Alaska's transportation system. In addition to flights which go on from Anchorage to the Orient, Northwest gives direct service by jet from Seattle to Anchorage. It may not be generally realized but Anchorage is the focal point for polar air routes. Many foreign-flag air carriers make Anchorage a regular stopping point on flights from Europe to the Orient and in the reverse direction.

The importance of Anchorage is further emphasized by this new Northwest route. Alaskans are grateful to Mr. Nyrop and all associated with him for inaugurating a service which we hope and believe will be successful in every way.

Mr. President, I ask unanimous consent to include with my remarks a news article concerning the new route which appeared in the Washington Post yesterday and I also ask unanimous consent to quote from an editorial on the same subject which appeared in the Post this morning.

There being no objection, the article and excerpt from the editorial were ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Post, Oct. 3, 1965]

DIRECT TOKYO FLIGHTS FROM DULLES STARTED

A huge Northwest Orient Airlines fan-jet roared out of Dulles International Airport yesterday carrying 40 passengers on the first scheduled direct flight between Washington and Tokyo.

The 9 a.m. takeoff followed an hour of ceremonies at the base of the Dulles tower marking beginning of three times weekly round trip Northwest flights between the American and Japanese capitals, with stops in Cleveland, Chicago, and Anchorage.

Japanese Ambassador Ryuji Takeuchi welcomed the new link between his nation and the U.S. east coast and William F. McKee, Federal Aviation Agency Administrator, who said the flights would be an important addition to the sparse traffic at Dulles.

The flights provide Washington's first direct air tieup with the Orient and the first jet access from here to Cleveland. They also increase Washington-Alaska flights to 10.

Among other speakers at the ceremony were Senators WARREN G. MAGNUSON, Democrat, of Washington, chairman of the Senate Commerce Committee, E. L. BARTLETT, Democrat, of Alaska, Senator MIKE MONRONEY, Democrat, of Oklahoma, ERNEST GRUENING, Democrat, of Alaska, Jose Imperial, Minister of the Philippine Embassy, and Northwest Orient President Donald W. Nyrop.

Accompanied by Nyrop, Mrs. Magnuson climbed portable stairs leading to the cabin door of the giant Boeing 707–320B fan-jet that was to make the first flight and with a bottle of champagne christened it the *Northwest Envoy*.

F. E. Ropshaw, secretary to the District Commissioners, presented to a stewardess letters of greeting from Commissioner Walter N. Tobriner for the Governor of Tokyo and the mayors of Anchorage and Seoul, Korea.

Among those aboard yesterday was Mrs. Carl T. Rowan, wife of the former Director of the U.S. Information Agency, who is joining her husband on his world tour in Bangkok, Thailand.

[From the Washington (D.C.) Post, Oct. 4, 1965]

WASHINGTON TO TOKYO

The new through air service from Washington to Tokyo inaugurated by Northwest Orient Airlines on Saturday supplies a greatly needed facility that binds America and Japan more closely together. It involves a gratifying addition to the international flights arriving at and originating at Dulles Airport.

The three-times-a-week service will have departures in Washington at 9 a.m. Tuesdays, Thursdays, and Fridays. Elapsed time to Tokyo will be 17 hours and 50 minutes. Arrivals in Tokyo will be on Wednesdays, Fridays, and Sundays. Eastbound flights, touching down at Seoul, Tokyo, Anchorage, Chicago, Cleveland and Washington, will leave Tokyo at 4 o'clock in the afternoon on Mondays, Wednesdays, and Fridays. This

service adds the 33d and 34th international flights to the Dulles schedules.

Northwest is pioneering in a service to which it surely will add other flights as demand develops. And that demand is certain to come. The present flights will furnish a fast service to Alaska and the Orient. That speed is bound to increase. One day the supersonic jets will improve even on this service. * * * So the Northwest Orient service is indeed an "inauguration," a beginning. It is a forerunner of innumerable other international flights that will one day bring millions of travelers to America through the finest airport in the world.

RUSSIA'S NEED IS AMERICA'S OPPORTUNITY

Mr. McGOVERN. Mr. President, it becomes increasingly difficult for anyone to understand the retention of the 50 percent American flag shipping requirement on sales of wheat to Russia, in view of the growing unanimity of informed American opinion that the regulation should be abandoned.

I have here an article by Mr. Eliot Janeway of the Chicago Tribune Press Service which appeared in that publication—an implacable foe of communism—which its editor's headlined: "United States Should Take Advantage of Soviet Union's Agricultural Distress."

Mr. Janeway forcefully argues that the United States should take advantage of her abundant food production to demonstrate again to the world the great strength of our system.

The Janeway article, Mr. President, does not necessarily reflect the view of the Chicago Tribune, but it is of great significance that the newspaper features Mr. Janeway's interesting analysis of the situation. It is another indication that even conservative interests recognize validity to the argument for sales and abandonment of the shipping regulation.

I ask unanimous consent, Mr. President, that the Janeway column as it appeared in the Chicago Tribune be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago (Ill.) Tribune, Sept. 16, 1965]

UNITED STATES COULD TAKE ADVANTAGE OF SOVIET UNION'S AGRICULTURAL DISTRESS

(By Eliot Janeway)

NEW YORK, September 15.—Back in the days of Ireland's struggle for independence, the old Irish Republican Army used to rally behind a very tough and simple battlecry: "England's crisis is Ireland's opportunity." It is a slogan which fits the tailormade opportunity presented to the United States right now by Russia's distress buying of wheat. Russia's farm crisis has created a prime opportunity for Yankee trading.

It is much more than an opportunity to score points in the propaganda and popularity contest abroad. Of course, there are points to be scored:

In terms of human values, Americans don't want to see other peoples go hungry; while communism counts on hunger to give it advantage.

OPPORTUNITIES ARE BIG

The opportunity to dramatize a moral victory is big, but the opportunity to consolidate a power advantage is bigger still; and, no matter how sensitive we may be to the popularity contest, it is the power struggle which is decisive in the war for the hearts and minds as well as the institutions and the welfare of men.

The fatal flaw in the Soviet system shows up again and again in Russia's failure to make her farm system work. So long as the Kremlin symbolizes want and insecurity, and is driven to make distress purchases of foreign food staples, Moscow will be on the defensive politically.

Only by our unique American standard of plenty is our farm surplus problem a source of weakness. In the eyes of the outside world, it is an overpowering advertisement for the American success story. The wonder is that Russia has done so well with so little in the way of food to deal with.

If the tables were turned, and if Russia were blessed with the food surpluses which we have permitted to be such a costly and troublesome burden to us, we really would be isolated.

FOOD SURPLUS STRATEGY

Russia, certainly, would not be on the defensive financially—as official Washington still believes we are—if she could use food surpluses like ours to seize the political initiative and the economic advantage which goes with it. None of the other players in the world power game can understand why we have not taken advantage of Russia's wheat shortage in order to negotiate from our strength against her weakness.

Indeed, it is incongruous for the United States to wheedle terms and defer to criticism from Europe's bankers (and from the world's gold speculators—including Russia and, adding insult to injury, even Red China) instead of using our food surpluses to wheel and deal for advantage.

The so-called ship-American clause is the obstacle to Washington's swinging into action. Our shipping is high cost, and the AFL–CIO is understandably defensive and protectionist about it. Also President Johnson does not command the real affection of labor's high command and, therefore, it is understandable that he should hesitate to breach the 50–50 traffic split which President Kennedy gave them.

But politics is the art of improvising third alternatives to dilemmas. There's a simple one waiting for Johnson. It's for Washington to direct quotas of Russian wheat shipping business to the friendly countries, which need it more than we do, and which can provide it more cheaply than we can.

AFL–CIO STAKE

The AFL–CIO has a bigger stake in keeping all three countries right side up economically than it has in wartime protectionism. Their weakness is the real reason for the dollar drain and the payments crisis.

Unemployment in Britain, turmoil in Greece, and dumping by Japan are a clear and present danger to the continuity of full employment assumed by present labor contracts. This is one case when it would be good business for us to give business to our weaker sisters.

Johnson has been chided for his political habit of rewarding his enemies and punishing his friends; and a great deal of suspicion surrounds his handling of foreign affairs. Russia's wheat crisis is giving the master-politician in the White House a chance to show himself as a superdiplomat who really does know how to help friends at the expense of the enemies.

WATER QUALITY ACT OF 1965

Mr. BOGGS. Mr. President, on Saturday, October 2, the President signed into law the Water Quality Act of 1965. This is an important milestone in the fight to control pollution in the waters of our country and the full implementation of the law will make it possible to begin the cleanup process in our polluted streams and, most importantly, make it possible to keep pollution from occurring in those remaining streams that are now clean and pure.

The Senate Special Subcommittee on Air and Water Pollution, of which I am pleased to be a member and which is chaired by the able Senator from Maine [Mr. MUSKIE], is now beginning to study the Federal Government's role in providing financial assistance to States, municipalities and industries to enable them to provide better facilities for the control of water pollution.

There is no doubt in any of our minds that to safeguard our water resources fully will be a costly project and, in line with that, I request to have printed in the RECORD at this point an article by Gershon Fishbein which appeared in the Washington Sunday Star on October 3, entitled "The Economics of a New Pollution Control Bill." The article, written by Mr. Gershon Fishbein, illustrates some of the financial problems which need to be met in order to bring about effective control and presents a number of possible methods that may be utilized to provide the financial help that is needed. Mr. Harold Jacobs, chairman of the Delaware Water Pollution Commission and an engineering consultant with the E. I. du Pont de Nemours Co., is quoted in this article in regard to the cost problem and his belief that the cost ultimately must be passed on to the consumer in some way.

I call my colleagues' attention to this excellent article by Mr. Fishbein and hope that they will have an opportunity to read it.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ECONOMICS OF A NEW POLLUTION CONTROL POLICY

(By Gershon Fishbein)

American taxpayers have billions of dollars at stake in the current consideration of how water pollution control will be financed.

Under Presidential directive, a special committee headed by Gardner Ackley, Chairman of the President's Council of Economic Advisers, is studying the question and expects to submit a report soon to form the basis of national policy and legislation.

Several alternatives—including an effluent tax, favorable tax advantages to industries required to install expensive antipollution gear, and other proposals—are under study.

A Senate Air and Water Pollution Subcommittee headed by Senator MUSKIE, Democrat of Maine, is also investigating air and water economics as part of its overall review.

In addition, legislation to provide economic incentives, in the form of a 3-year writeoff to industries required to install air and water abatement equipment, has been introduced by Senator RIBICOFF, Democrat, of Connecticut.

"Unlike many capital outlays that ultimately produce new profits, these costs basically serve the health and safety of the public," RIBICOFF told the Senate.

"Therefore, it is entirely appropriate that there be some public sharing with private industry of the economic impact of these expenditures."

That the public must indeed share some of the costs of air and water pollution—especially water—seems certain, no matter

how the economic pie is sliced, or however these costs may be concealed.

Harold Jacobs, principal consultant in the Engineering Department of E. I. du Pont de Nemours & Co., says:

"When we get down to what is required to clean up our air and our rivers, we find that there is no easy handle to the problem. Pollution control can be costly and these costs ultimately pass on to the consumer somehow.

"Sometimes it will have to be taxpayers, when sewage treatment facilities are substandard. Sometimes it will have to be customers, because waste treatment must be included in the cost of a product."

One idea which has stirred considerable controversy in water control is the effluent tax. This tax, designed to fix responsibility for the costs of cleanup on those primarily responsible for the discharges, is in use in the highly industrialized Ruhr region of Germany, an area approximately half the size of the Delaware River Basin.

The streams which serve it have a very low flow during the summer, or about 25 percent of the lowest flow ever recorded on the Delaware River.

It serves a population of about 8 million and is considered one of the most heavily industrialized areas in the world, accounting for 40 percent of Germany's industrial production and 80 percent of its heavy industrial output.

Despite the enormous demands for water in the area, major sections of the Ruhr River are suitable for swimming, boating, and other recreational purposes, and the price of the unsubsidized water taken from the Ruhr for public consumption is low.

Industries and cities pay a charge for the waste they contribute to the disposal system, based upon periodic tests of the quality and quantity of their effluent. The charge is not contingent upon whether or not the wastes are directly handled in treatment plants.

Allen V. Knese, director of the water resources program for Resources for the Future, 1755 Massachusetts Avenue NW., is one who believes the Ruhr experience could be adapted to the United States, especially if tied into a regional water control setup.

"The results that have been obtained in the Ruhr region are impressive," he told Senator MUSKIE's subcommittee. "The system of effluent charges is an effective means of motivating industries to reduce the contribution of their waste to rivers."

Many Government officials, as well as most industrialists, are not convinced, however, that effluent charges are the answer—especially not if they are considered tax deductible. In that case, they point out, the industry involved might be encouraged to pollute.

Opponents also point out the high costs of monitoring the plants, the difficulties in collecting the charges, and the complexities of fixing responsibility for effluents on nonindustrial sources, such as runoffs from pesticides washed into rivers or streams following heavy rains.

But experts are convinced that no economic plan recommended by the Ackley committee can succeed unless it is placed in the larger context of a national pollution control policy.

This is considered necessary to protect health, attract industry, preserve aquatic life and recreation—all familiar factors to residents in the Potomac River area.

Are we, therefore, headed in the right direction in pollution control policies and are the national objectives clear?

One idea being advanced with increasing emphasis recently is the development of regional water systems geared to the needs of those particular areas. Says Mr. Kneese:

"One possibility would be for the Federal Government to take direct action. It could set up regional water-quality management agencies or overall regional water resources agencies with water-quality management responsibilities.

"These could be separate entities such as TVA or units of a regionalized Federal agency such as proposed by the first Hoover Commission."

Whatever system is adopted, it seems clear that the new economics of pollution control can no longer be left to chance as long as the taxpayer's stake is so great.

AMERICA FACES ASIA

Mr. INOUYE. Mr. President, Mr. Howard P. Jones, chancellor of the East-West Center in Honolulu, is a man whose distinguished record in the field of foreign relations spans nearly two decades.

Best known as our former Ambassador to Indonesia, where his memory is still revered by thousands of Indonesians despite our strained relations with that country, Howard Jones devoted nearly 14 years of his career in our foreign service to a study of our relationships with Asia and southeast Asia.

Chancellor Jones addressed the third quarterly membership meeting of the Honolulu Chamber of Commerce on September 23. This was his first major address since he left the foreign service to take the demanding position as head of the East-West Center, a Federal institution devoted to the improvement of relations between East and West.

I know that my colleagues in the Senate will be interested to learn his views on our relations with Asia and southeast Asia today. Mr. President, I ask unanimous consent that Chancellor Jones' remarks be printed in full in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

AMERICA FACES ASIA

(By Ambassador Howard P. Jones)

Mr. Chairman, we seem to be involved in so many problems around the world these days that one can sympathize with the troubled statesman who is quoted as saying, "Stop the world, I want to get off."

I have had the fortune to live in the midst of those problems for the last two decades, at what might be termed important crossroads of history. I recall an experience at a Washington cocktail party a few years ago. I was talking with a prominent businessman to whom I had been introduced as "Mr. Jones, from the State Department."

"And what part of our foreign difficulties are you responsible for?" my new acquaintance growled.

Today, I have been asked to speak about the Far East. We have had and continue to have many disagreements and misunderstandings with nations of this area. Now let us admit that we approach Asia wrongly. Standing here on the soil of Hawaii, surely the only way in which the countries of Asia can be thought of as the Far East is if one travels around the world the wrong way. Asia from here is our closest neighbor, not to the East but to the West. So we ought to be thinking of Japan, China, the Philippines, and all the other countries of the area as the "Near West." From London, Asia is the Far East, but not from Hawaii, or from any other part of America.

Today I should like to do three things. First, to comment briefly on American policy in Asia, second, say something about the attitudes we encounter in Asia and the countries which currently are presenting us with our most pressing problems, and, third, attempt to draw some conclusions as to where we go from here. In so doing, I shall refer to Indonesia, the country from which I have just come, not only because I know it well, but because it represents one of the most extreme examples of the forces and emotions that are sweeping Asia and Africa today. I shall also talk in particular about Vietnam.

I have selected these two countries to discuss specifically because I think that they illustrate more than any others the difficult problems with which we are currently faced and the sources from which those problems derive. I have chosen them also for another reason. Should we lose either of them to communism, the difficulties of holding the rest of southeast Asia would be immeasurably increased.

INDONESIA

There has been a great deal of misunderstanding in America about Indonesia; there has been too much tendency to dismiss Indonesia as just another troublesome little southeast Asian country. The fact is, of course, that Indonesia is the fifth largest country in the world in population—we are the fourth, Indonesia is the fifth. It is also one of the richest in natural resources, and it contains the largest Communist Party outside of the bloc. Its more than 4,000 islands are strategically located between the Pacific and Indian Oceans and separate Australia from the West. Superimpose a map of Indonesia upon a map of the United States and you will be in for a surprise, those of you who have not been in the area, for you will find it stretches from California to the east coast and out into the Atlantic as far as Bermuda; from north to south it reaches from the Great Lakes to the Gulf of Mexico. Lose Indonesia to communism and all of southeast Asia is caught in a pincers between the great weight of Communist China on the north and the second largest country in the Far East on the south.

An American education, at least prior to World War II, was an education concerning half the world in that it was devoted to the study of social, political, economic, religious and military institutions and events that had arisen in western societies from which we as a people had sprung. Most of us are woefully ignorant of what had happened to people who lived in the other half of the world, the ideas which had generated out of their experience over the same period of time, and the institutions and mores by which they lived. It was as though we looked at the world with blinders on, which permitted us to see only the Western Hemisphere.

Indonesia is a good example of this. Even as late as the beginning of World War II, the Netherlands East Indies conjured up before our eyes a chain of lush, romantic, tropical islands dotted in an emerald sea like jewels in a case. Embracing the equator, they were thought of as somewhat akin to our own West Indies. Columbus had been looking for a shorter route to these islands when he discovered America, and most of us had a vague idea of the importance of spices to the nonrefrigerated 15th century Europe and England. But when the people of these islands revolted against their colonial masters, the Dutch, at the end of World War II, few Americans had the remotest idea of the importance of this revolution in terms of world history.

Few Americans, even today, know that this nation had a glorious history of its own, that long before Harold the Saxon fought the Battle of Hastings and the small island in the stormy North Atlantic we call England began to stir itself to establish the hardly to be discerned beginnings of what would be a great nation and a vast empire, Indonesia had lived to see its own manifestation of strength and glory in an empire which included all of what is now Indonesia as well as important parts of the Asian mainland.

The great Sriwidjaja Empire of the 7th, 8th, and 9th centuries with its glittering court at Palembang in south Sumatra rubbed shoulders with China to the north. Its reach was later duplicated by the Java-based Madjapahit Empire of the 14th century. Long before Columbus discovered America that is, there existed in middle and southeast Asia two great empires—the Chinese Empire and the Javanese Empire. The lingua franca which is spoken all the way from the southern borders of Thailand to and including west New Guinea is the Bahasa Indonesia which comprised one of the important unifying factors in Sukarno's revolution.

The Indonesians have a proud heritage and are a proud people, and anyone who discounts their intelligence, ability or capacity is making a fundamental mistake. By western standards, they have been behaving badly lately, but the key question is not whether we agree with them, whether we like what they are doing, but whether they will remain in the free world or go Communist. To obtain an answer to that question, let us take a brief look at what is going on inside that country today.

Internally, the political forces of the country can be loosely divided into two broad categories at the present: the pro-Communist grouping centered on the Communist Party itself (the PKI) and the anti-Communist grouping which comprises most of the military leadership, the religiously based political parties, much of the grassroots strength of the Nationalist Party and other important elements.

In the realm of physical power, the military is more than a match for the Communists and remains the principal counterweight preventing an overt effort by the Communists to leapfrog into power. I do not believe, therefore, that a direct takeover by the Communists is an imminent danger in Indonesia. What we are witnessing is the erosion of non-Communist strength and increasing influence of the PKI throughout important areas of the society. This could have the result of intensifying the present Indonesian predilection toward an extreme nationalism which will be friendly toward the international Communist image of the world and therefore almost as inimical to our own policies and programs as if it were an avowedly Communist regime. Nevertheless, all hope is not lost in Indonesia. At least 95 percent of the people of that country are non-Communist and a substantial majority of the latter group are anti-Communist.

VIETNAM

Two central problems confront Asia: (1) The threat of communism and its objectives of domination and enslavement; (2) enormous economic and political problems arising from the colonial past of most of these countries—Japan and Thailand are exceptions—and their current stage of development. Now we cannot solve these problems for them, but we do have the resources and the military power to play a crucial role. This certainly applies to Vietnam. Our purpose there is to join in the defense and protection of a courageous people who are under an attack that is directed and controlled from outside their country. But even more is at stake than this. In Vietnam we are facing a major test of the new Communist strategy of indirect aggression, known as "wars of liberation."

Let's look at Vietnam in perspective. Following the Allied victory over the Nazi aggressors in World War II, American initiatives can be fairly described as heroic. We were in a period of cold—lukewarm—hot war. The Marshall plan was mounted and saved Europe. The Communists put on pressure in Berlin, in Greece, in Korea, in Laos, in Vietnam, the Huks in the Philippines, guerrillas in Malaya. Everywhere they were met and their assault thrown back, although we lost some free world territory in Korea and Vietnam. Now they have a new tactic—to make black aggression wear the white robes of national liberation.

We are now committed in Vietnam—the decision has been made, but it may be useful to take a look at the alternatives that were presented to us. As I see it, there were three: First, to admit to being a paper tiger, abandon our clear-cut commitment to help defend that country and pull out; second, to go to the other extreme and fight a major war on the China mainland which in the long run might require the use of atomic weapons; and third, to continue what we are now doing—increase as necessary our military effort in South Vietnam to establish security in that area by interdicting efforts to aid the Vietcong from outside and assisting the Vietnamese government in subduing them inside. In this our objective is to save the country's independence and reestablish peace. Since this is true, the door is always open to negotiation. We will negotiate with governments whenever they are ready to negotiate with us. But we will negotiate from strength, not from weakness. I can assure you that we are not going to give up. We are going to put in whatever effort is necessary to do the job and pay whatever price goes with it. President Johnson has made this abundantly clear.

We might examine the first alternative a little further. What would pulling out accomplish? In my opinion, not one single, solitary thing. On the contrary, it would encourage the Communists to increase and expand their efforts—it would alter the front line by giving up South Vietnam. That's all it would do. It would not solve the problem. There would be, of course, some serious collateral results. American prestige in Asia would drop to an alltime low. American pledges of assistance would be forever discounted. Even our leadership in Europe and NATO would suffer a severe blow—the strongest military power in the world caved in the moment the going got rough. Listen to what our enemies themselves say: North Vietnam's premier Pham Van Dong: "The experience of our compatriots in South Vietnam attracts the attention of the world, especially the peoples of South America." Vietnam's Army Chief, General Vo Nguyen Giap, went even further. "South Vietnam is the model of the national liberation movement of our time," he said. "If the special warfare that the United States imperialists are testing in South Vietnam is overcome, then it can be defeated everywhere in the world." So I discard the first choice. Similarly, I discard the second choice, escalation. No one wants an unnecessary expansion of the area of conflict with all the implications that this involves.

And so we come to the policy we are committed to pursuing. It is a hard choice that President Johnson has faced—to send American boys into Asia again to defend another Asian country against Communist aggression. But in my opinion he has made the only choice responsible American leadership could make. It seems clear that this is a challenge we must meet, not only for the sake of South Vietnam, not only for the sake of southeast Asia generally, but in order to prevent further expansion of communism to other nations that would face the same kind of subversive threat from without if the Communists were to succeed in Vietnam.

OUR ROLE IN ASIA

And so, having examined the problems we face in two countries of Asia, two situations which represent extremes, let us consider what our central purposes are and what our role in Asia should be.

I think no has expressed our central purposes better than President Kennedy. "Wisdom requires the long view," he said. And the long view shows us that the revolution of national independence is a fundamental fact of our era. This revolution cannot be stopped. As new nations emerge from the oblivion of centuries, their first aspiration is to affirm their national identity. Their deepest hope is for a world where, within a framework of international cooperation, every country can solve its own problems according to its own traditions and ideals.

"It is in * * * our national interest that this revolution of national independence succeed. For the Communists rest every thing on the idea of a monolithic world—a world where all knowledge has a single pattern, all societies move toward a single model. The pursuit of knowledge, on the other hand, rests everything on the opposite idea—on the idea of world based on diversity, self-determination, and freedom. And that is the kind of world to which we Americans, as a nation, are committed by the principles on which this Republic was founded."

This is the kind of world we seek and this has represented the central thread of our policy in Asia ever since the war. In a nutshell, then, our policy in Asia is to assist the free nations of Asia in the maintenance of their independence and the preservation of opportunity for them to develop as they wish, in peace and without outside interference. There are two jobs to be done—the basic job is economic development, the war on poverty, and disease. But this job cannot be done in an atmosphere of insecurity. And so, we face the second job—the military task of establishing or helping to establish security where there is none.

Many of you served in our Armed Forces in World War II; others in the Korean war; still others during recent periods of Communist confrontation. Among other tests of strength was the blockade of Berlin. Perhaps some of you flew the airlift. I was in Berlin in that period. I was convinced then and continue to be convinced that the only face one can turn toward international communism is one of strength, firmness, and determination. This requires above all faith in the rightness of our purposes. We must never forget that cold, lukewarm, or hot—we are in a state of war today. Lenin once said, "First we will take Eastern Europe; then the masses of Asia; then we will surround America, which will fall into our hands like a ripe fruit." This challenge still faces us.

The outbreak of war between Pakistan and India has added another serious dimension to the problems of our troubled world. Red China's 700 million people are the great weight to the north that all Asians in south and southeast Asia fear. But the fear is the product of disunity. If the populations of all the free-world nations which encircle Communist China be summed up, the total is greater than 912 million—almost one-fourth more than Red China's population. To be meaningful, however, these free nations must be united in recognition of and action against their common enemy whereas the picture we find is one of free nations quarrelling with each other. "Divide and conquer" has been the rule of successful conquest since the dawn of history, and the Chinese are sophisticated in these matters. War between Pakistan and India, the Indonesian-Malaysian confrontation—these and other divisive conflicts between free-world nations not only rupture peace in this important area of the world, they present an ever-increasing opportunity to our enemies. It is understandable that the breaking up of Asian feudalism and the colonial system, constituting a major social and economic as well as political revolution, could not have taken place without some struggle and some violence. It is to our own interest to do what we can to insure that these processes do not result in expanded opportunities for those bent on exploiting human misery.

In these few moments I have endeavored to give you a little of the flavor of the attitudes and difficulties we face in Asia. The problems they reflect are not problems of our making but they are problems which have become our responsibility.

At this point I should like to throw in a word of caution. Let us never discount the dynamics and force of the new nationalism of Asia and Africa. Let us not be deluded into the notion that peace will solve all our problems, that peace will bring about harmony of relationships with these new nations. We must face the fact that we shall have to live with nations whose philosophy and concepts are basically different from our own. We shall have to come to accept the fact that the independence of these nations is the thing of greatest importance to us and that this very independence will mean disagreement on many issues. But we of all people should be able to understand and live with the idea that friends can disagree and still remain friends. Our own Bill of Rights was born in the spirit of Voltaire's famous cry, "I don't agree with a thing you say but I will fight to the death for your right to say it."

It is nonsense for us to talk about peace unless we are prepared to meet the requirements for progress on the part of the peoples of Asia. They are demanding a place in the sun, a share of the world's goods, a decent life. The world must be responsive to these demands. The prospects for peace are in direct proportion to satisfying the demands for progress of two-thirds of the people of the world. They must feel that tomorrow will be better than today, that their children and grandchildren are certain to have a better life than themselves. In his inaugural address President Johnson described America as "the uncrossed desert and the unclimbed ridge. It is the star that is not reached and the harvest that is sleeping in the unplowed ground."

This is a great statement and a true statement. What we must never forget is that the new nations are seeing the same stars, dreaming the same dreams about their own countries. They have further to go. But the path of peace follows their progress.

ANNIVERSARY OF GUINEAN INDEPENDENCE

Mr. HARTKE. Mr. President, last Saturday, the people of Guinea celebrated the 7th anniversary of their national independence. On October 2, 1958, the Republic of Guinea undertook to exercise its rights and responsibilities as a sovereign state in the international community. In December of that year, it became a member of the United Nations where it has actively participated in several of the specialized agencies.

The people of Guinea have a long, rich history, reaching back to the days when they were united under the empires of Ghana, Mali, and Songhai—empires which existed long before the discovery of the New World.

Today, Guinea is blessed with a richness in natural resources, possessing huge reserves of bauxite and significant deposits of iron ore, gold, and diamonds. Moreover, Guinea enjoys a leadership determined to develop its resources of the land as well as the talents of its people, so that the Guinean economy will better serve the needs and goals of the nation. In 1962, it was my honor and pleasure to meet Guinea's remarkable President, Sékou Touré, and his Cabinet. It was an inspiration to me to note their dedication to the fulfillment of their people's aspirations.

Committed to development at home and peaceful relations abroad, the Guinean Government has pursued a positive policy of nonalinement in foreign affairs—a policy respected by our own Government. On the African continent, Guinea has taken a leading role in efforts for regional cooperation. With the United States, she has concluded an investment guaranty agreement, taken a definite interest in our Peace Corps program, and maintained friendly relations in general.

Mr. President, I know that many Americans join with me in saluting the people of Guinea on the occasion of the anniversary of their national independence.

FOOD FOR PEACE ENDS A WAR

Mr. McGOVERN. Mr. President, I have twice spoken in the Senate at some length on the need for a world food and nutrition program and a major effort to end the world food gap.

I have argued that such a program, beyond discharging a moral obligation to our fellow men, would have great value to us in building peace and in strengthening our domestic economy.

On September 27, 1965, Mr. James Reston, of the New York Times, wrote a widely published column which is an account and commentary on the Kashmir truce. He attributes the truce in that conflict between India and Pakistan to American aid, and to the prospect of losing the supplies of American food which would result from a continuation of the conflict. He wrote:

It is in the production of food, rather than in the production of missiles that the United States has gained its greatest advantage over the Communist world, and this just happens to be the field that concerns the undernourished and underdeveloped countries of the world more than any other.

Holding down food production in this country—

He adds—

cannot be justified * * * because food surpluses are a menace to peace, and it is surely not because we want to improve the character of the American people by driving them off the farm and into the jungle of our cities.

Mr. President, I ask unanimous consent to have printed in the RECORD Mr. Reston's splendid column, which very forcefully supports the wisdom of using our agricultural productive capacity in a war against want.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CUTOFF OF U.S. FOOD TIPPED SCALES FOR KASHMIR TRUCE

(By James Reston)

WASHINGTON, September 27.—American farm policy and American foreign aid policy have been criticized more than any other Government programs of the postwar period, yet these were undoubtedly the policies that led to the settlement of the Indian-Pakistani war.

Communist China used threats of military intervention to influence the course of that war and failed. The United States simply cut off its economic aid to both countries and succeeded.

There were, of course, other factors—the pressure of the Soviet Union and the United Nations for a cease-fire helped, but in the end the fear of losing American economic assistance, and particularly American food, was almost certainly the decisive consideration that stopped the fighting.

THE SURPLUSES

The extent and influence of these American food shipments are still not fully appreciated. More than 1 million Indians died in the famine of 1943 in the Province of Bengal alone. Since then, American food shipments have saved the lives of millions more.

On May 4, 1960, President Eisenhower and the Indian Food Minister, S. K. Patil signed the biggest food transaction in history. This provided for the shipment by the United States of 16 million tons of wheat (587 million bushel) and 1 million tons of rice over a 4-year period.

This one agreement alone was worth over $1,400 million and in effect committed the United States to send a whole shipload of wheat to India every day over a 4-year period.

Presidents Kennedy and Johnson continued this program, and when President Johnson cut it off after the fighting started, against the advice of most of his advisers, the diplomatic negotiations began to make some progress.

AID FIGURES

U.S. military aid to both India and Pakistan is difficult to estimate because the figures are not made public but nonmilitary aid to the two countries from 1960 until last July is as follows:

[In thousands of dollars]

	India	*Pakistan*
Loans	1,485,200	916,500
Grants	375,800	631,200
Food	2,147,700	816,800
Emergency aid	16,400	94,800
Private food	204,500	46,800

The loans to India in the fiscal year 1965 will total $255 million plus $384 million in surplus food and to Pakistan the figures are $179,700,000 in loans and $146,100,000 in surplus food.

Of course the Indians and Pakistanis will deny that the threat of losing U.S. aid had anything to do with the cease-fire, but when foreign assistance reaches this magitude, both sides have more to lose economically than they can gain by waging war over Kashmir.

PROBLEM OR OPPORTUNITY?

"I don't regard the agricultural surplus as a problem," John F. Kennedy said at the Corn Palace in Mitchell, S. Dak., during the 1960 presidential campaign. "I regard it as an opportunity, not only for our own people, but for people all around the world."

Many others in Washington have said the same thing, but it is only when a dangerous war is stopped that it is possible to dramatize the connection between food and war and between food and peace.

It is in the production of food, rather than in the production of missiles that the United States has gained its greatest advantage over the Communist world, and this just happens to be the field that concerns the undernourished and underdeveloped countries of the world more than any other.

PRODUCTION LAGS

World food production in the last few years has not quite kept pace with the growth of the world's population. Present food production in the world will have to be doubled by 1980 and trebled by the end of the century to avoid catastrophic famine and all the political and military implications of such a condition.

This raises many complicated questions, but one of them certainly is where we are wise in holding down farm production as much as we are.

It cannot be because food surpluses are a menace to peace, and it is surely not because we want to improve the character of the American people by driving them off the farm and into the jungle of our cities.

LET US BE FAIR

Mr. HARTKE. Mr. President, the new immigration bill which was signed into law by President Johnson proves once again that America and Americans want to be fair.

As the President himself remarked, "the fairness of this standard is so self-evident we may well wonder that it has not always been applied."

The test for those wanting to come to this country now will be based on what they can contribute to the growth and strength and spirit of America. And also, on their close relationship to those already here.

This seems eminently fair and just. Yet, for over four decades the immigration policy of the United States has been distorted by the injustice of the national origins quota system.

Under that system, "the ability of new immigrants to come to America depended on the country of their birth. Only three countries were allowed to supply 70 percent of all immigrants."

This kept families apart "because a husband or wife or child had been born in the wrong place."

Such a policy, as President Johnson pointed out, has been un-American because it has been untrue to the faith that brought thousands to these shores.

In the beginning, no one asked our forefathers where they were born and where their fathers or grandfathers were born—they came to this country, provided they had the strength for the journey and the spirit to survive in a new land.

A man's willingness to work and to prove himself worthy of the benefits he could reap were the qualities that mattered.

This spirit of different nationalities working toward the goals—that each man may be free, that each man may have the right to the pursuit of happiness, living under the laws of man and God—these made the United States a great and good land.

The new immigration bill is a fair one, and it is right that we have abolished some old injustices of the past.

INTERVENTION IN THE CARIBBEAN

Mr. McGOVERN. Mr. President, Dr. John N. Plank, a distinguished authority on Latin American affairs, has written a significant article for the October 1965 Foreign Affairs, entitled "The Caribbean: Intervention, When and How."

Dr. Plank is a senior staff member in charge of political development studies at the Brookings Institution in Washington. He was formerly Director of the Office of Research and Analysis for the American Republics in the Department of State during the Kennedy administration. Prior to that, Dr. Plank served as professor of Latin American affairs at the Fletcher School of Law and Diplomacy. I consider him one of the most perceptive and best informed of our Latin American authorities.

Dr. Plank's analysis of the problems and dangers involved in U.S. intervention in Caribbean affairs should be read by every Member of the Congress. I ask unanimous consent that the article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CARIBBEAN: INTERVENTION, WHEN AND HOW

(By John N. Plank)

By conventionally accepted criteria the Dominican Republic has had a dismal career as an independent state. Wretchedly poor, politically and socially primitive, intellectually and culturally undistinguished, it has been flotsam on the great tides of the 19th and 20th centuries, an object not a subject on the international scene.

Late last April public order collapsed in the capital. Rapidly more than 20,000 U.S. troops were put into the city to insure the safety of foreigners, halt the bloodshed, and quell the violence, restore order—and forestall what President Johnson believed was the imminent takeover of the Republic by Communist-dominated elements and the establishment of a second Cuba.

The President's decision to intervene, applauded by most North Americans, caused consternation in other parts of the hemisphere. Many Dominicans were offended by this latest affront to their national dignity, seeing in it a dramatic demonstration that the United States had no confidence in their ability to resolve their own problems, and little respect for their position as citizens of a sovereign and independent state, juridically the equal of the United States itself. Many other Latin Americans were deeply disturbed, both because of the massive breach of the nonintervention principle and because of the way in which the United States took to itself responsibility for defining the character of the developing Dominican situation and responding to it.

The Organization of American States, profoundly shocked, its pride in tatters, came reluctantly to the support of the United States, assuming responsibility for helping the Dominicans end their strife and make a new start on the long, unfamiliar road toward political democracy, economic well-being, and social justice. Subsequently a small number of hemispheric states sent military contingents to serve with U.S. personnel as part of an inter-American force stationed in the Dominican Republic.

All of this is now history. But it is history that could repeat itself—with appropriate local variations—in other countries of Central America and the Caribbean. In Haiti, for instance, or in Guatemala or in Honduras. These are countries that lie within a sphere the United States regards as being of vital importance: under no circumstances will their capture by Communist regimes be permitted. The device of preventive intervention, employed by the United States in the Dominican case, could be employed again. Whether it will be employed, or should be, is another matter.

II

Three facts are to be kept in mind in thinking about U.S. policy toward countries in the Caribbean region. The first fact is that the societies of the Caribbean, like societies everywhere in the developing world, are caught up in the confused but rapid process of change which we are accustomed to call generically the nationalist revolution. The second is that the United States is member and leader of the inter-American system, the institutionalized embodiment of the Western Hemisphere idea, known since 1948 as the Organization of American States. The old label better conveys the nature of the congeries of institutions through which the states of the hemisphere conduct much of their public business. The third fact is that the Caribbean is the focus of the cold war in this hemisphere.

In abstract formulation, a major purpose of U.S. policy in the Caribbean is to promote harmonious links between Caribbean nationalism and hemispheric inter-Americanism in pursuit of cold-war objectives. In practice this is extraordinarily difficult, as the Dominican crisis vividly illustrates. Why it is difficult is worth exploring; how the difficulties might be lessened is worth considering.

Let us look first at the societies of the Caribbean. For our purposes they include eight small states—El Salvador, Guatemala, Honduras, Nicaragua, Costa Rica, Panama, Haiti, and the Dominican Republic—and a larger one, Venezuela.[1] All of them are Communist targets; in all of them there are cadres of dedicated Communists, some of whom have spent time in Cuba and have traveled behind the Iron and Bamboo Curtains.

More important than Communist interest and presence, however, are Communist opportunity and capability. These are functions not only of the number and skill of the Communists but of the social and political contexts within which they operate, and in respect of these latter the countries differ widely among themselves.

Guatemala, for instance, is a dual society. Its Indian majority is still largely unincorporated into national life; the minority of ladinos and whites who control the country's political and economic destinies are the inheritors of a social system marked by exploitation, brutality, corruption, and absence of distributive justice. Political skill and imaginative statesmanship are notoriously lacking; the country's institutions are quite inadequate to channel and accommodate growing demands for modernization in economic, political, or social respects. It is to be recalled that in 1954, a Communist-dominated government was overthrown in Guatemala; today the country is a prime Communist objective.

El Salvador, an overwhelmingly mestizo society, stands in contrast to Guatemala in having a bold, modernizing elite, alert, and able political leadership, increasingly strong and resilient political and social institutions, and an exceptionally hard-working and adaptable population. There is a serious agrarian problem, traceable both to growing population pressures on the land and concentration of landownership in a few hands; this problem has nearly intractable elements. But while the Communists are doing their best to exploit peasant grievances, their prospects for sparking large-scale violence and taking over the machinery of state are very poor.

Honduras—poor, sparsely populated, ineptly governed by a self-seeking military figure, lacking internal structure and coherence—is a restless country that offers im-

[1] On geographic grounds, politically explosive British Guiana could be included in this survey, as could Puerto Rico, the independent states of Jamaica, Trinidad, and Tobago and the several British, French, and Dutch dependencies in the region. Their histories, however, have been very different from those of the traditionally "Latin American" countries; and their present relationships to the cold war are also very different. Despite its important Caribbean littoral, Colombia is generally regarded as a South American, not a Caribbean, country.

portant opportunity to the Communists. On the other hand, Nicaragua, long the fief of the Somoza family, is comparatively stable, most of its population living in somnolent unawareness of the revolutionary temper abroad in today's world and little disposed to adventure.

Costa Rica, a happy aberrant on the Central American political scene, has been for many years a vigorously functioning constitutional democracy: there is no evidence that the nation intends to depart from that course. The population, which includes an exceptionally high proportion of small holders, is culturally homogeneous and shares overwhelmingly a constructive commitment to the values of the West. The country's political leadership, alert through hard personal experience to Communist wiles and ways, will not countenance subversion.

Panama, of course, owes its existence as an independent state to the canal, and no understanding of the country can be obtained without constant reference to the canal. There is the heavy economic dependence of the country upon the canal and, related to it, the comparative underdevelopment of the resources of the interior of the country. There is the social unrest engendered, first, by awareness of Panamanians living near the zone of how poorly served they are by their society in comparison with Americans in the zone and, second, by awareness of Panamanians in the interior of how poorly served they are in comparison with Panamanians near the zone. There is the scapegoating mentality: the problems of Panama are caused by the United States, and it is the responsibility of the United States to ameliorate them—but to do so without infringing Panama's status as a sovereign and independent state. There is above all deep psychological and political frustration that occasionally manifests itself in aggressive violence. Who are we Panamanians? Where are we going? What do we stand for? What can we do? What will the United States permit us to do? Always and always the reference back to the canal and the United States. In an age of nationalism, the situation of the Panamanians is tragic. In cold war terms the situation is also precarious: the Communists have identified themselves with every grievance, real or fancied, the Panamanians express. The country is a tinderbox.

Haiti's situation is even more precarious but for very different reasons. Of all states in the hemisphere, this is the least well structured. Politically, despite the seeming invulnerability of President Duvalier, it is extremely fragile and brittle: when Duvalier goes, the political "system"—such as it is—will collapse. Duvalier's successors will inherit administrative chaos and a disarticulated society. Desperately poor, largely rural, living isolated lives, the population asks little of its central government but to be left alone. Into this administrative, political, ideological void the Communists could step easily.

The remaining state, excepting the Dominican Republic itself, is Venezuela. Venezuela belongs in this group because it abuts on the Caribbean and because it has been singled out by Castro's Cuba as a top-priority target. In other respects, however, Venezuela differs markedly from the rest of the countries at which we have glanced. It is much larger; it is much better endowed with resources; it is much more highly developed and its development is proceeding at a rapid pace. Moreover, no state in the group, with the noteworthy exception of Costa Rica, can begin to approach Venezuela in respect of the quality of its political leadership: a political miracle is in the way of being wrought in Venezuela, a process that began in 1958 and that continues. Not only is the present government directed by men who are able and responsible, but alternative leadership, also able and responsible, is available in the wings. The Venezuelan public has achieved in a remarkably short time a high degree of political sophistication and a sense of civic responsibility.

It is not surprising that Castro should direct his principal energies against Venezuela, for Venezuela daily demonstrates the falsity of his claim that rapid social and economic development within a constitutionally democratic political framework is impossible and that close cooperative ties with the United States mean stultification, sacrifice of national dignity and perpetual colonial status. Castro's fanatical followers in Venezuela—who are to be numbered in the scant thousands—can identify exploitable grievances. They can point, for instance, to serious unemployment and to a housing situation that for many Venezuelans is altogether deplorable. But the Communists have been unable to secure their objective of provoking a military coup, nor have they been able to enlist much public support for their cause. They are reduced to conducting a running campaign of violence. There is no reason to suppose that their activities cannot be dealt with effectively by the Venezuelan authorities without serious prejudice to the institutional stability of the country.

Of the Dominican Republic little need be said here, for its plight has been comprehensively described by many commentators during recent months. It should be noted, however, that President Johnson's intervention course was decided upon, not because of a judgment that the Communists in the Dominican Republic were strong, but rather because of a conclusion that non-Communist elements were too weak, too lacking in political sophistication, and too little skilled in the arts of governance, to withstand Communist infiltration and subsequent control.

III

What conclusions can we derive from this rapid survey? First, the obvious one: this is a highly heterogeneous collection of states, each with its idiosyncratic features, its special problems. No blanket approach to the Caribbean can be very useful.

Second, really significant Communist opportunity is present in a number of these states, but the nature of the opportunity differs from country to country. At an extreme there is Haiti, which if left to itself could be effectively, if not formally, under Communist control within hours or days of Duvalier's demise. The Communist opportunity in Panama is of another kind: here it is that of fanning the futile fires of Panamanian nationalism, exacerbating anti-American feeling, railing against the established Panamanian social and political order and its leadership, and infiltrating the press, the unions, the university, and the bureaucracy. The Panamanian Communists know, as do their mentors in Havana, Moscow, and Peiping, that they will never be permitted to come at all close to seizure of the Panamanian state; the most they can hope for is to provoke intervention by the United States. But that would be no small thing.

In Guatemala and Honduras, the opportunity is of still a different variety. It is that of enticing military leaders whom the Communists take to be politically unlettered and unimaginative into a campaign of brutal and indiscriminate repression, of savage reprisal against "the Communists" and, more broadly, against "communism." The Communists themselves will continue to maintain their identification with popular, reformist causes. This is in the generic pattern that led to Castro's success in overthrowing Batista.

There is a third and more reassuring conclusion that emerges from this review. It is that democratic values and practice can root and hold in Central American and Caribbean soil, that with responsible, effective and responsive political leadership, with constructive government programs, with appropriate emphasis on distributive justice, with decent respect for basic human rights, the Communist threat can be diminished and dealt with. Costa Rica abundantly demonstrates this; so does Venezuela; so, at a remove, does El Salvador.

But if the picture is not all dark, it is still very far from bright. How is the United States to meet effectively situations like those in Haiti, Panama, Guatemala, and Honduras? Duvalier will not live forever. Late or soon, mass violence will erupt again in Panama. No one would want firmly to predict that the Castro-Guevara technique will fail in Guatemala and Honduras. What is to be the U.S. response when and if these contingencies materialize?

The dilemma is a cruel one, for in a sense the Communists win if we intervene and they win if we fail to intervene. If we intervene we suffer the slings and arrows of outraged public opinion around the world. Moreover, and more important, we are an alien force in the land we enter, thereafter chargeable by the nationals of that country with responsibility for the country's destiny. Perhaps we have forgotten, but the Dominicans have not, that Trujillo made rapid progress in his ascent to power during the U.S. occupation of 1916–24.

On the other hand, if we fail to intervene, not only will the Communists have secured additional territory in this hemisphere, with corresponding strategic loss to us; not only will a totalitarian mousetrap have closed on a subject population, with consequent foreclosing of political and social options; but also the Communists will have proved empty our repeated assertion that another Communist regime would not be tolerated in this area, with resultant damage to our prestige.

So long as our foreign policy is keyed to cold-war concerns, so long as we are engaged in armed conflict with Communists in Asia, there can be no question about which of the alternatives is to be chosen. Intervention is clearly preferable to nonintervention.

IV

Having said so much, important questions remain. Intervention, yes, but intervention under what auspices? Intervention at what time? Intervention in what guise?

In the sequel to the Dominican crisis of last spring, thought has been given to the establishment of a permanent inter-American force under OAS control that would be available to respond to situations like those we have been considering. The assumption is, of course, that a multilateral, inter-American intervention would be less repugnant to world opinion and more acceptable to the public of the state intervened than would be unilateral action by the United States. It would demonstrate to the world that the judgment of Communist takeover was widely shared; it would put into the intervened country troops from other Latin American countries as well as troops from the United States.

Now it is a highly dubious assumption that the world would not think of such a force as a U.S. creature; and there is even less reason to suppose that the Guatemalan public, for instance, would respond more warmly to troops from General Stroessner's Paraguay than to troops from the United States. Thus there is little likelihood that the creation of a force of this kind would be authorized by the OAS.

The reasons why this is so go to the nature of the inter-American system. Generations of us have been brought up to believe that the Western Hemisphere comprises a special kind of family of nations, linked not only by geography but also by a community of interests, values and aspirations. Myths have astonishing survival capacity, but it is

not infinite. This particular myth can survive only so long as the demands placed upon the inter-American system are not too great.

Actually, the states of the hemisphere are united by very little. They differ among themselves in most important ways; as we have seen, even the geographically contiguous states of Central America, among which some significant transnational forces are at work, diverge from one another in crucial political, economic, and social, and even racial respects. Moreover, as the states of the hemisphere acquire more firmly defined national identities, as they develop their internal economies, as they move to assert themselves as independent and autonomous entities on the broader world scene, the incompatibilities among their interests will emerge ever more sharply.

Few states of the hemisphere would see it as being in their interest to cooperate in the creation of a permanent military force, staffed largely by Latin American troops but armed and financed largely by the United States. Not only are the states of Latin America selfish—as are all states in the sense of putting their own interests first; also they would entertain the gravest doubts about the purpose for which the force was to be created. They would not be greatly reassured to be told that the force was to handle cases of "indirect aggression." The term is much too vague, and the subjective element involved in determining when "indirect aggression" has occurred is much too prominent.

There is another point, and it is well to be honest: The Latin Americans would assume that the force really was being created to serve the interests of the United States, that control of the force would vest ultimately in the United States, and that it would be our judgment that would determine where and when the force was to be employed. Because, rightly or wrongly, most Latin Americans question the ability of the United States to understand or sympathize with movements of radical reform, even of non-Communist varieties, and because they sometimes doubt the accuracy and adequacy of the information upon which our policy decisions are based (the Dominican case is very much in point) they would be reluctant to commit themselves beforehand—for so they would see it—to questionable actions.

Finally, of course, the Latin Americans dread the very notion of intervention, however defined, for whatever purpose. We in the United States find this fear, almost pathological in its intensity, difficult to understand. The fear is expressed up and down the hemisphere, just as fervently by spokesmen whose countries have never suffered intervention as by those of countries which have. Moreover, we find it hard to comprehend that the Latin Americans do not seem to appreciate that it is fully as much in their interest as in ours not to permit further Communist expansion in this hemisphere. Our understanding of the Latin American attitude may be facilitated if we bear in mind that we have been a puissant actor on the world stage for the better part of a century, that we have never thought of ourselves as an object at the mercy of alien forces, and the last time we were "intervened" was in 1812.

If there is to be no standby, OAS-sanctioned, multilateral force available for interventions, must we therefore resign ourselves to undertaking by ourselves this unpleasant role? The answer is probably yes if we intend to utilize the device of preventive intervention as we did in the Dominican Republic. For almost by definition an intervention of this kind must be mounted with great speed, its purpose being precisely to preempt the crisis situation before the Communists have an opportunity fully to exploit its possibilities. In such a case full consultation with the member states of the OAS may well turn out to be impossible—so it appeared, at least, in the Dominican situation—and summary notification is all that can be achieved.

There is no need to talk about this question in the abstract, however. Our area of concern is geographically strictly delimited, and we have identified four states in that area in which intervention might be necessary. Of these Haiti is the one whose situation corresponds most closely to that found by President Johnson and his advisers in the Dominican Republic. Preventive intervention in Haiti, therefore, may be appropriate and necessary.

It is out of the question to ask the OAS to give the United States discretionary authority to intervene in Haiti at a time we deem proper; it is also out of the question to expect the OAS formally to commit itself in advance to multilateral intervention in that country. But if the United States is persuaded that only the Communists can profit from Duvalier's death, it should begin at once to inform OAS member governments of Haitian realities and of its own posture with respect to those realities. It would thereby avoid some of the bitterness and misunderstanding that followed upon our Dominican action and that continue to plague inter-American relations.

There is much to be said, however, for abandoning the device of preventive intervention altogether. Certainly its use would be not only unnecessary but extremely unwise in the other three countries—Guatemala, Honduras, Panama—and its use is not enjoined upon us even in Haiti. This gets us to the question of timing of interventions.

Let us assume that the immediate post-Duvalier period in Haiti is precisely as posited here, i.e. that the political void is nearly complete and that only the Communists in the country have the skill, agility and coherence of purpose to exploit the opportunity thus afforded. Why should we not let the Communists take over the country? Or at least let them move along so far in the process of takeover that there can be no doubt about their nature and intentions? What would be lost?

It will not do to say that the country would be lost. Given the nature of Haitian society and the political and administrative infrastructure there, the Communists could assert effective control over little more than Port-au-Prince and a handful of sorry departmental capitals during the first stages of their sways. For months after their usurpation of the Haitian machinery of state they would be highly vulnerable, either to direct U.S. intervention or to a properly supported invasion of Haitian exiles.

At the time of the Dominican intervention we heard many references to the Cuban example. But if the Cuban case illustrates anything, it illustrates that precipitate haste in intervention is not necessary. Even in a country as comparatively highly developed as Cuba—with all that development entails in terms of the availability of instruments of coercion and control—Castro's power was not effectively consolidated for many months after his entry into Havana.

What is suggested here is not that the United States postpone its intervention until a Communist regime is firmly installed with the apparatus of a totalitarian state fully in operation; what is suggested is that the United States wait at least long enough before intervening to permit the other states of the hemisphere and of the world to see the contours of the emerging regime. In the Dominican case President Johnson and his advisers told the world that the forces opposing General Wessin y Wessin were Communist-dominated; but the world did not see persuasive evidence that this was in fact so.

When we turn from Haiti to Honduras and Guatemala, the case against precipitate preventive intervention is even stronger. For the constellation of forces in these countries is such that we could not automatically assume upon the outbreak of major strife that the Communists were in controlling positions or that in the outcome they would carry the day. The Communists are not the only ones in these countries who preach the need for radical reform and who, in desperation, will resort to violence to achieve it. Moreover, it would be a sorry kind of justice and of logic to which we would implicitly subscribe if we were to adopt as a working principle the notion that the arbitrary and illigitimate use of violence—the use of the armed forces of the state—by military officers in quest of power or plunder could be tolerated while the resort to violence by aggrieved, frustrated and frantic citizens represented a threat too great to our national security to be countenanced.

Again, all that is urged is that we be prudent, that we pay a decent respect to the opinions of mankind. If indeed a Communist regime emerges, we are emphatically on record that we will not permit its survival, and we can move strongly against it. If we cannot tell whether a regime is Communist or not, then let us act on the assumption that it is not; it will pose no threat to our security. Above all, let us not conclude automatically that because known Communists are associated with popular movements, even movements sired by violence out of desperation, that the movements are ineradicably tainted. Had our intelligence services been as ubiquitous and as susceptible to cold-war criteria in 1930 as they are today, Romulo Betancourt would never have reached the Venezuelan presidency to put his country firmly on the march toward effective democracy.

V

In the preceding pages the emphasis has been heavily on the question of intervention in the Caribbean, its necessity, form, and timing. This is an important theme, for the problem of "indirect aggression" is a real and serious one. The danger exists, though, that the problem can be magnified out of proper proportion and that perspective may be lost.

When one stops to think about it, one is struck by the slight success the Communists have achieved in the Caribbean. Cuba and the image that Castro projects may distort our vision; but the fact remains that the demonstrated capability of the Communists has not been great. Their fragile control in Guatemala collapsed like a house of cards in 1954 when subjected to challenge by a handful of exiles. Although the Communists have identified themselves with the full gamut of reform and revolutionary demands, they have failed to enlist many recruits to their banner. Although, as we have seen, opportunity in the form of exploitable grievances is abundantly available to them, they have been unable to utilize such opportunity with much effectiveness.

This situation could change. The prospects for Communist success could sharply improve. It would be truly tragic, however, if the United States should be an agency importantly responsible for those improved prospects. This could happen if we were to put inordinate stress upon Communist dangers in the region at the expense of due attention to the crying needs for political, economic, and social reform. If the United States loses its identification with the concepts of political democracy, social justice, economic well-being, and the dignity of the individual, it has lost its purchase in this hemisphere.

What it comes down to is this: Do we, or do we not, have confidence in the Latin Americans? Hard though the choice is, we cannot really have it both ways.

AMERICA, THE BEAUTIFUL

Mr. BARTLETT. Mr. President, before the President signed the immigration bill into law on Liberty Island, we were privileged to hear the voice of one of our Nation's greatest artists, Anna Moffo, of the Metropolitan Opera.

This great artist stood only inches from the water in New York Harbor—for Liberty Island is quite small—and over her shoulder one could see Ellis Island, where so many immigrants to this country have passed.

In a few words, before her song, Miss Moffo explained that her own father had been an immigrant to America.

This country is indeed fortunate to have benefited from so many races and cultures.

As the President remarked, America became great and the land flourished, because it was fed from so many sources.

It would be impossible in a short time to enumerate all of the great scientists, philosophers, writers, painters, and singers whose roots go back to other lands.

Now, the new immigration bill states that those wishing to immigrate here shall be admitted on the basis of their skills and their close relationship to those already here.

In signing the bill, President Johnson said that "today we can all believe that the lamp of this grand old lady is brighter today—and the golden door she guards gleams more brilliantly in the light of an increased liberty for people from all countries."

RECESS

Mr. LONG of Louisiana. Mr. President, I move that the Senate stand in recess until noon tomorrow.

The motion was agreed to; and (at 4 o'clock and 27 minutes p.m.) the Senate took a recess until tomorrow, Tuesday, October 5, 1965, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 4 (legislative day of October 1), 1965:

DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY

John W. Hechinger, of the District of Columbia, to be a member of the District of Columbia Redevelopment Land Agency for the term expiring March 3, 1970.

IN THE AIR FORCE

The nominations beginning Harry H. Abe to be captain, and ending Fred L. Witzgall to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 24, 1965.

IN THE ARMY

The nominations beginning Sterling H. Abernathy to be colonel, and ending Stephen C. M. Zakaluk to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 24, 1965.

HOUSE OF REPRESENTATIVES

TUESDAY, OCTOBER 5, 1965

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore, Mr. ALBERT.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Clerk will read the following communication.

The Clerk read as follows:

OCTOBER 5, 1965.

I hereby designate the Honorable CARL ALBERT, of Oklahoma, to act as Speaker pro tempore today.

JOHN W. MCCORMACK,
Speaker.

PRAYER

The Chaplain, Rev. Bernard Braskamp, D.D., used this verse of Scripture:

Colossians 3: 16: *Let the word of Christ dwell in you richly in all wisdom.*

Almighty God, we invoke Thy blessing on all mankind, especially the lonely of soul with Thy fellowship and the wounded of heart with Thy healing.

Show Thy mercy to all who spend their days languishing in weakness and are continually pursued by pain and are tempted to lose all hope.

Help us to understand that these needs may not necessarily be an end but a means inspiring us to think of Thee and the spiritual things which we may have forgotten or neglected.

May we realize that our many troubles often have their roots in our physical discords and thus become a valley of shadows, drear and desolate, rather than a sunny upland.

Grant that health of soul, one that is rich in sympathy and radiant in peace, may be our first concern.

May our faith in Thee never be a tradition or theory but heartfelt. May the Christ of Prophecy who became the Christ of History be for us the Christ of Experience.

In His name we pray. Amen.

THE JOURNAL

The Journal of the proceedings of Friday, October 1, 1956, was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Geisler, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On September 29, 1965:

H.R. 948. An act to amend part II of the District of Columbia Code relating to divorce, legal separation, and annulment of marriage in the District of Columbia;

H.R. 1395. An act for the relief of Irene McCafferty;

H.R. 2926. An act for the relief of Efstahia Giannos;

H.R. 2933. An act for the relief of Kim Jai Sung;

H.R. 3989. An act to extend to 30 days the time for filing petitions for removal of civil actions from State to Federal courts;

H.R. 5883. An act to amend the bonding provisions of the Labor-Management Reporting and Disclosure Act of 1959 and the Welfare and Pension Plans Disclosure Act;

H.R. 6294. An act to authorize Secret Service agents to make arrests without warrant for offenses committed in their presence, and for other purposes; and

H.R. 9854. An act for the relief of A. T. Leary.

On September 30, 1965:

H.R. 205. An act to amend chapter 35 of title 38 of the United States Code in order to increase the educational assistance allowances payable under the war orphans' educational assistance program, and for other purposes; and

H.J. Res. 673. Joint resolution making continuing appropriations for the fiscal year 1966, and for other purposes.

On October 1, 1965:

H.R. 1221. An act for the relief of Betty H. Going;

H.R. 2414. An act to authorize the Administrator of Veterans' Affairs to convey certain lands situated in the State of Oregon to the city of Roseburg, Oreg.;

H.R. 2694. An act for the relief of John Allen;

H.R. 3062. An act for the relief of Son Chung Ja;

H.R. 3337. An act for the relief of Mrs. Antonio de Oyarzabal;

H.R. 3765. An act for the relief of Miss Rosa Basile DeSantis;

H.R. 4596. An act for the relief of Myra Knowles Snelling;

H.R. 5252. An act to provide for the relief of certain enlisted members of the Air Force;

H.R. 5768. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarn of silk, and for other purposes;

H.R. 5839. An act for the relief of Sgt. Donald R. Hurrle, U.S. Marine Corps;

H.R. 5903. An act for the relief of William C. Page;

H.R. 8212. An act for the relief of Kent A. Herath;

H.R. 8352. An act for the relief of certain employees of the Foreign Service of the United States;

H.R. 8715. An act to authorize a contribution by the United States to the International Committee of the Red Cross; and

H.R. 9877. An act to amend the act of January 30, 1913, as amended, to remove certain restrictions on the American Hospital of Paris.

On October 3, 1965:

H.R. 2580. An act to amend the Immigration and Nationality Act, and for other purposes.

On October 4, 1965:

H.R. 4152. An act to amend the Federal Farm Loan Act and the Farm Credit Act of 1933 to provide means for expediting the retirement of Government capital in the Federal intermediate credit banks, including an increase in the debt permitted such banks in relation to their capital and provision for the production credit associations to acquire additional capital stock therein, to provide for allocating certain earnings of such banks and associations to their users, and for other purposes; and

H.R. 7682. An act for the relief of Mr. and Mrs. Christian Voss.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced